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# ESSAYS

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# ESSAYS

## CRITICAL AND NARRATIVE

BY

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## P R E F A C E.

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I HAVE COLLECTED in this volume some of the Articles which at various times I have contributed to different periodicals. It is, perhaps, pardonable in an author to wish to rescue a few of his anonymous productions from the wave of oblivion which so soon passes over ephemeral literature. I have added one or two Lectures, which I have delivered at several places. Whether the Essays which I have here reprinted deserve the attempt to secure for them a more permanent record must be determined by the judgment of the public, from whose decision there is no appeal.

W. F.

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# ESSAYS

## CRITICAL AND NARRATIVE.

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### *THE SPEECHES OF LORD BROUGHAM.*

‘Edinburgh Review,’ April, 1858.

MANY are the claims of Lord Brougham upon the respect and gratitude of his countrymen ; and many are the titles by which he will be known to posterity. As a philanthropist his name is imperishably associated with those of Clarkson and Wilberforce in their efforts for the suppression of the Slave Trade, and he has given the chief impulse to the great cause of the Education of the people. As a statesman, he has taken a leading part in counselling and carrying some of the most important political measures of the nineteenth century. As an advocate whose zeal for his client scorned consideration of personal advancement, he will be known, if for nothing else, yet for his immortal defence of Queen Caroline. As a lawyer, his name is inscribed in the list of Lord High Chancellors of England,—and he bounded to that lofty dignity from the ranks of the Bar, without having previously filled one of the subordinate law offices of the Crown. As a legislator, the country owes to his perseverance some of the most important improvements in her civil laws, and we allude more especially to the radical changes that have been effected in the law of Evidence. He is not only a great speaker, but an able writer ; not only a politician, who has fought like a

<sup>1</sup> *Speeches on Social and Political Subjects, with Historical Introductions.* By 2 vols. 12mo. London and Glasgow : 1857.  
HENRY LORD BROUGHAM, F.R.S.

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gladiator for fifty years in the arena of party strife, but a man of letters, and a mathematician of no mean attainments. We remember when it was the fashion for those who cannot conceive the possibility of excellence in more than one department of knowledge, to sneer at Lord Brougham as 'no lawyer.' But this is best answered by the fact, that in hardly a single instance were his judgments in the Court of Chancery reversed on appeal by the House of Lords ; and we will venture to say, that although there have been lawyers like Buller, and Holroyd, and Bayley, and Littledale, more versed in the technicalities of their craft and the mysteries of special pleading—an abomination now well-nigh swept away—few have been more profoundly imbued with the principles of the Common Law.

Rare, indeed, have been the examples of an intellect so vigorous and active. His energy throughout life has been astounding ; and even now, at a period which in other men would be called old age, it shows little sign of diminution or decay. Mentally, his eye is not dim, nor his natural strength abated ; for he still prosecutes the cause of Law Reform with an ardour which might put to shame the efforts of younger men ; and year after year he presses upon the Legislature measures of which the object is to simplify the machinery, and lessen to the suitor the cost of our courts of justice.

We do not intend to go over the wide field which a life so spent presents ; but we propose in the present article to confine our attention to Lord Brougham as an Orator. It is by his speeches that his influence was most felt in the generation now fading from amongst us, and by them, more than anything else, his colossal reputation has been built. Although there is, unhappily, something evanescent in those great efforts of the human tongue which have so often roused and ruled the passions and the intellect of the senate and the nation, their results belong to history, and Lord Brougham will leave no monument behind him more worthy to be held in lasting remembrance than these Orations. For he has laboured to become a master in his art, and we see in the arrangement of his topics, the structure of his periods, and the choice of his language, the skill, and in its proper sense, the artifice, of the consummate rhetorician.

Upon the subject of Oratory a lamentable misapprehension seems to prevail, and we are not sorry to have an opportunity of saying a few words about it. No one can deny that eloquence at the Bar and in Parliament is just now at a low ebb. It is often positively painful to enter a court of justice and hear the addresses to which juries are condemned to listen, from men who occupy the place where once stood an Erskine and a Brougham. No doubt there have been of late years brilliant exceptions, but we do not hesitate to say, that the general character of forensic oratory at the present day is far below what might be expected from the education, the opportunities, and the intellectual vigour of the age.

Nor is the state of things much better in the House of Commons. We do not, of course, expect that a country gentleman should be a good speaker because he has carried the county ; nor that merchants or railway directors should study Demosthenes in their counting-houses, and come forth as orators as soon as they have been returned for a borough ; but how few of the practised debaters of the House ever rise to anything which approaches to the name of oratory, how few are able to realise the idea of one whom Cicero describes : *qui jure non solum disertus sed etiam eloquens dici possit !* It has indeed been the custom of late to decry oratorical powers, as tending rather to dazzle and mislead than instruct and edify ; and to praise the dull dry harangue of the plodding man of business, who crams down the throat of his audience a heap of statistical facts, and then wonders to find them gaping or asleep, rather than the brilliant speech of the accomplished orator, who enlivens his subject with the sallies of wit, and adorns it with the graces of imagery. But this kind of language proceeds more from mortified incapacity than approving judgment. Hobbes defined a republic to be an aristocracy of orators, interrupted at times by the monarchy of a single orator ; and in a country like this, where the very highest rewards and the proudest position are the prizes open to successful eloquence, it may well be matter of wonder that the number of competitors is so small in the race where 'that immortal garland is to be won, not without dust and heat.'

And what is the reason of this ? It arises, we believe, chiefly from the fact that men will not believe that Oratory is

an art, and that excellence in this, as in every other art, can only be attained by labour and by the study of the best models. To such an extent is this heresy carried, that it is actually considered a disparagement—a thing almost to be ashamed of—to be suspected of preparing a speech beforehand ; and it is thought a recommendation of himself by an honourable member when, on rising to address the House, he declares that on entering it he had not the slightest intention of doing so. As if a man ever will or can speak well who takes no pains to make himself a proficient in the art, and who fancies that, like Dogberry's reading and writing, oratory comes by nature ! The speaker must learn his craft as much as a painter or sculptor, or musician ; although, like them also, he must have from nature some special aptitude for his vocation. If common sense did not tell us this, the great examples of antiquity would prove it. Every schoolboy knows the enormous pains that Demosthenes and Cicero took to qualify themselves for the task of addressing their fellow-citizens ; and that some of the most celebrated orations that have come down to us from Athens and Rome were written for delivery, but actually never spoken at all. Very different from the common practice has been, if we mistake not, Lord Brougham's conception of the work of the future orator. He has furnished abundant evidence of his familiarity with the classic models. He has shown his veneration for Demosthenes by translating the Chersonese Oration and the great Oration on the Crown ; and on more than one occasion he is said to have committed to writing beforehand the finest parts of his own speeches. If this be true, we honour him the more for the homage he has paid to the eternal rule, that without such 'improbis labor,' excellence in any art is denied to man. And he has had his reward. He stands confessedly in the front rank of English orators, and he won his spurs at a time when the conflict was with giants.

At the present moment it will hardly be contested that the standard of oratory is far higher in the House of Lords than in the other House of Parliament ; and if any one were asked to point out the best speakers in that august body he would name without hesitation, Lord Brougham, Lord Lyndhurst, the Earl of Derby, and the Earl of Ellenborough. We hope



that before long Lord Macaulay will be added to the list, but he has not yet made a display of his great oratorical powers in the assembly to which he has been elevated, and which by his presence he adorns. Of Lord Lyndhurst's power as a debater it is impossible to speak too highly. But although at times, and in some passages, his speeches may be called eloquent, they want the rushing force—the declamatory vehemence—which is an essential element of oratory. Admirable in logic, comprehensive in statement, and faultless in diction, Lord Lyndhurst commands the attention of all who listen to him. But he appeals more to the reason than the feelings or the passions of his audience, and seeks to convince rather than to persuade. His discourse flows on like the waters of some calm majestic river unruffled by the wind; but we hear nothing of the dash of the torrent or the roar of the cataract;—there are no startling apostrophes, nor soul-stirring appeals, which, in the proud consciousness of his argumentative power, he seems almost to disdain. Certainly this cannot be said of Lord Derby, who, with a command of language as perfect as Lord Lyndhurst's, has a fire and a brilliancy peculiarly his own.

But great as these men are in debate, none of them can be said to rank as orators with Lord Brougham. If we were obliged to characterise his oratory by a single word, it would be Energy—the *Δεινότης* of the Greeks. Cicero tells us that often when he rose to speak he trembled in every limb. We doubt whether this ever happened to Lord Brougham. But the Roman orator had by nature a weak and nervous constitution, and this may account for the timidity of a character which, although on a memorable occasion he could thunder forth—*Contempsit Catilinæ gladios, non pertimescam tuos*—caused him, in the strife of contending factions, painfully to oscillate between his regard for Pompey and his fear of Cæsar. With an athletic frame Lord Brougham possesses a mental organisation singularly robust; and his style of speaking is cast in a corresponding mould. It is the furthest possible removed from the *exercitatio domestica et umbratilis*, and is rather that which rushes *medium in agmen, in pulverem, in clamorem, in castra, atque in aciem forensem*. The following passage breathes not only the force of the orator, but the character of

the man. It is from his speech in the House of Lords in 1838, on the emancipation of Negro apprentices :—

I have read with astonishment, and I repel with scorn, the insinuation that I had acted the part of an advocate, and that some of my statements were coloured to serve a cause. How dares any man so to accuse me? How dares any one, skulking under a fictitious name, to launch his slanderous imputations from his covert? I come forward in my own person. I make the charge in the face of day. I drag the criminal to trial. I openly call down justice on his head. I defy his attacks. I defy his defenders. I challenge investigation. How dares any concealed adversary to charge me as an advocate speaking from a brief, and misrepresenting the facts to serve a purpose? But the absurdity of this charge even outstrips its malice.

Lord Brougham's voice is not musical ; at times, in its higher tones, it is harsh and hoarse, and sounds like the scream of the northern eagle swooping down upon its prey ; but he possesses the art of modulating it with admirable effect, and his elocution is not less cultivated than his diction. His power over the English language is wonderful. It was said of him on one occasion that he made it bend under him. We do not assert that the word chosen is not sometimes too strong. We will not affirm that he does not sometimes sin against a fastidious taste. We cannot deny that in ransacking his memory for epithets and synonyms—or perhaps we should say polyonyms—he brings up some that are too vehement, and that in his descriptions of persons and measures there is too much tendency to exaggerate. But his vocabulary is inexhaustible, and his faults are those of amplitude of power. He runs riot in the exuberance of strength. His periods are often declamatory, but there are no platitudes ; and without declamation, in its proper sense, there is no oratory. It would be easy to point out in Demosthenes—still easier in Cicero—passages which, to the colder feelings of our western clime, seem overstrained and hyperbolical. But the criterion is this : How did they act upon the crowds that listened ? Did they, or did they not, stir up from its innermost depths the soul of the auditory ? For it must never be forgotten that the great end of oratory is to persuade, and by carrying captive the passions, to attack through them the citadel of reason. It will be found, on a careful study of Lord Brougham's speeches, that the declamation almost always assists the argument ; it advances, so to speak, the action of the drama, and never, as is the case when it becomes mere tinsel or bombast in the

hands of inferior men, impedes and encumbers it. He is fond of iterating an idea, and clothing it in every imaginable form of words—piling Ossa on Pelion—and making each sentence rise in the scale of impressiveness. Some of his periods may be too long, and there is a danger lest the attention of the hearer—or perhaps we ought now to say the reader—should flag while pausing for the climax of the sentence ; but there is no false grammar—no anacoluthon—no confusion of metaphor, and out of the longest sentence or succession of sentences, he winds himself with unerring accuracy.

He himself said in one of his speeches—that on the administration of justice in Ireland in 1839, when defending himself from the charge of violence and undue severity made against him by Lord Melbourne—‘No man is a judge of the exact force and weight of his own expressions.’ Probably Lord Brougham has at times been hardly conscious of the force of the projectile he has launched from his lips in the ardour of debate. He reminds us of Polyphemus hurling rocks as if he were a boy flinging pebbles. Thus, speaking in 1823 of the Notes of Russia, Prussia, and Austria, with reference to the state of Spain in 1822–3, he said :—

I will venture to say that to produce anything more preposterous, more absurd, more extravagant, better calculated to excite a mingled feeling of disgust and derision, would baffle any chancery or state-paper office in Europe.

And again—

Monstrous and insolent and utterly unbearable as all of them are, I consider that of Russia to be more monstrous, more insolent, and more prodigiously beyond endurance than the rest.

So also, speaking of the conduct of the Whigs on the Bed-chamber question in 1839—

This is the novel, the uncouth, the portentous, the monstrous description of our free and popular constitution, which the Whig Government of 1839 has given to the Reformed Parliament of England.

That careful preparation of an elaborate speech does not unfit an orator for unpremeditated and effective reply, has been shown by Lord Brougham in some of his finest displays. We will mention one remarkable example. It is the speech delivered by him on the instant without a moment’s notice, in answer to the charges brought by the late Sir Robert (then Mr.) Peel, in 1819, against the Education Committee, of which

Mr. Brougham had been chairman. It is a masterly effort, full of the keenest sarcasm and most cutting point—and from a note at the end we learn that its preservation is owing to the accident of a barrister who took an interest in the subject, happening to be in the gallery of the House of Commons ; for ‘the newspapers, for some days before this debate took place, had refrained from reporting Mr. Brougham’s speeches in consequence, as it is said, of some offence given by him to a reporter in the form of words used in referring to him.’ The following passage from this reply is a good illustration of the speaker’s peculiar style—heaping sentence upon sentence, and stretching his topic until the tension becomes almost too great to be borne :—

But if I do not now satisfy all who hear me that the Committee were right, that this House was right, and the Right Honourable Gentleman wrong—if I do not succeed in proving to the heart’s content of every one man of common candour and ordinary understanding, that the Right Honourable Gentleman is utterly wrong in all his charges—wrong from the beginning to the end of his laboured oration—if I do not in a few minutes and by referring to a few plain matters strip that performance of all claim to credit—if I do not show him to be mistaken in his facts, out in his dates, at fault in his law, ignorant of all parliamentary precedent and practice, grossly uninformed, perhaps misinformed, upon the whole question which in an evil hour he has undertaken to handle, with no better help than the practical knowledge and discretion of those who have urged *him* on to the assault, while they showed only a vicarious prodigality of their own persons—then I will consent to suffer—what shall I say?—to endure whatever punishment the Right Honourable Gentleman may think fit to inflict upon me and my colleagues—even the weight of his censure—which will assuredly in his estimation be fully equal to our demerits, how great soever they may be. But I venture to hope that the House, mercifully regarding my situation while such a judgment is suspending, will allow me, ere the awful decree goes forth, to avert, if it be possible, from our devoted heads a fate so overwhelming.

Sarcastic irony, of which only a light touch appears in the latter part of the above extract, is a favourite weapon of Lord Brougham. Sometimes he has indulged in it even to the verge of indiscretion ; as, for instance, in the following passage, from his speech in defence of Queen Caroline, addressed, be it remembered, to the House of Lords, who were sitting in judgment upon her fate. But he doubtless knew how far he might venture to go in upbraiding while he affected to praise,

This was when he was examined on the Tuesday. On the Friday, with the interval of two days,—and your Lordships, for reasons best known to yourselves, but which must have been bottomed on justice guided by wisdom,—wisdom never



more seen or better evinced than in varying the course of conduct and adapting to new circumstances the actions we perform—wisdom which will not, if it be perfect in its kind and absolute in its degree, ever sustain any loss by the deviation—for this reason alone, in order that injustice might not be done (for what in one case may be injurious to a defendant, may be expected mainly to assist a defendant in another,)—your Lordships, not with a view to injure the Queen—your Lordships, with a view to farther not to frustrate the ends of justice—allowed the evidence to be printed, which afforded to the witnesses, if they wished it, means of mending and improving upon their testimony.

And this reminds us of another passage in the same speech, where, flinging irony aside, he with unparalleled boldness charged the Peers of England, before whom he stood as the advocate of the Queen, with having themselves, by their own conduct, forced her to associate abroad with persons beneath her, and thus incur the degradation of which she was then accused.

‘But who,’ he asked, ‘are they that bring this charge, and above all before whom do they urge it? Others may accuse her—others may blame her for going abroad—others may tell tales of the consequences of living among Italians, and of not associating with the women of her country or of her adopted country; but it is not your Lordships that have any right to say so. It is not you, my Lords, that can fling this stone at Her Majesty. You are the last persons in the world—you who now presume to judge her, are the last persons in the world so to charge her; for you are the witnesses whom she must call to vindicate her from that charge. You are the last persons who can so charge her; for you being her witnesses, have been the instigators of that only admitted crime. While she was here she courteously opened the doors of her palace to the families of your Lordships. She graciously condescended to mix herself in the habits of most familiar life with those virtuous and distinguished persons. . . . But when changes took place—when other views opened—when that power was to be retained which she had been made the instrument of grasping—when the lust of power and place was to be continued its gratification, to the first gratification of which she had been made the victim,—then her doors were opened in vain; then that society of the Peeresses of England was withholden from her; then she was reduced to the alternative, humiliating indeed. . . . either to acknowledge that you had deserted her. . . . or to leave the country and have recourse to other society inferior to yours.’

Our limits will not allow us to attempt an analysis of this celebrated speech, and indeed, it is too well known to need that we should do so. All who have read it must have stamped upon their memories the way in which Mr. Brougham shattered the evidence in support of the bill, and the irresistible force with which he insisted upon its rejection, not only on account of the worthlessness of the witnesses who were called, but the absence of the witnesses who were not. In anticipation of the taunt which might be expected from those

who would say that he might call the latter himself, he burst forth :—

And if you do not call them—in the name of justice, what? Say!—Say! —For shame, in this temple—this highest temple of justice, to have her most sacred rights so profaned, that I am to be condemned in the plenitude of proof, if guilt is; that I am to be condemned, unless I run counter to the presumption which bears sway in all Courts of Justice, that I am innocent until I am proved guilty; and that my case is to be considered as utterly ruined, unless I call my adversary's witnesses! Oh most monstrous! most incredible! My Lords! my Lords! if you mean ever to show the face of those symbols by which Justice is known to your country, without making them stand an eternal condemnation of yourselves, I call upon you instantly to dismiss this case, and for this single reason; and I will say not another word upon this subject.

It was in the same speech that he uttered his well-known description of the duties of an advocate.

I once before took occasion to remind your Lordships—which was unnecessary, but there are many whom it may be necessary to remind—that an advocate, by the sacred duty which he owes to his client, knows in the discharging that office but one person in the world, *THAT CLIENT AND NONE OTHER*. To save that client by all expedient means—to protect that client at all hazards and costs to all others, and among others to himself—is the highest and most unquestioned of his duties; and he must not regard the alarm—the suffering—the torment—the destruction—which he may bring upon another. Nay, separating even the duties of a patriot from those of an advocate, and casting them, if need be, to the wind, he must prove reckless of the consequences, if his fate should unhappily be to involve his country in confusion for his client's protection!

This, if considered as propounding an article in the code of forensic ethics, is an exaggerated and erroneous view, against which the right reason of every one instinctively revolts; but the speaker meant it to apply to and foreshadow the necessity to which he might be driven of recriminating upon the King, and impugning his title to the throne in consequence of his marriage with Mrs. Fitzherbert. Although Mr. Brougham did not go so far as this, yet he went far enough in vindicating his claim to know in the discharge of his duty to his client 'but one person in the world, that client and no other,' when he called the King 'the ringleader of the band of perjured witnesses;' and in quoting an affectionate letter from George III. to his daughter-in-law, said, that he could not read it 'without a feeling of sorrow, when we reflect upon the reign that has passed, and compare it with the rule we live under.'

It is needless to express any opinion upon the merits of the case, or to revive a controversy, in every aspect most

unhappy, which has died away. We are dealing with the Queen's trial merely as it afforded a great occasion for a great advocate; and no one can deny the matchless skill with which the defence was conducted, and the power with which the testimony of Majocchi, the '*non mi ricordo*' Majocchi—of Demont, 'the Machiavel of waiting maids'—of Cucchi, with 'that unmatched physiognomy, those gloating eyes, that sniffing nose, that lecherous mouth'—of Sacchi, and of Kress, and indeed of all the witnesses for the bill, was sifted, anatomised, and destroyed. We will quote the peroration of the speech, and chiefly for the purpose of calling attention to the rising climax at the beginning.

Such, my Lords, is the case now before you! Such is the evidence in support of this measure—evidence inadequate to prove a debt—impotent to deprive of a civil right—ridiculous to convict of the lowest offence—scandalous if brought forward to support a charge of the highest nature which the law knows—monstrous to ruin the honour, to blast the name, of an English Queen! What shall I say, then, if this is the proof by which an act of legislation, a parliamentary sentence, an *ex post facto* law, is sought to be passed against this defenceless woman? My Lords, I pray you to pause. I do earnestly beseech you to take heed! You are standing upon the brink of a precipice—then beware! It will go forth your judgment, if sentence shall go against the Queen. But it will be the only judgment you ever pronounced, which, instead of reaching its object, will return and bound back upon those who give it. Save the country, my Lords, from the horrors of this catastrophe—save yourselves from this peril—rescue that country of which you are the ornaments, but in which you can flourish no longer, when severed from the people, than the blossom when cut off from the roots and stem of the tree. Save that country that you may continue to adorn it—save the Crown which is in jeopardy—the Aristocracy which is shaken—save the Altar which must stagger with the blow that rends its kindred Throne! You have said, my Lords, you have willed—the Church and the King have willed—that the Queen should be deprived of its solemn service. She has, instead of that solemnity, the heartfelt prayers of the people. She wants no prayers of mine. But I do here pour forth my humble supplications at the Throne of Mercy, that that mercy may be poured down upon the people, in a larger measure than the merits of their rulers may deserve, and that your hearts may be turned to justice.

In connexion with the Queen's trial another opportunity was afforded to Mr. Brougham for a great oratorical display. When she died in August, 1821, the bells of most of the churches throughout England were tolled,—but those of Durham remained silent. Neither church nor cathedral there paid this tribute of respect to her memory; and a Mr. Williams, the editor of a local newspaper at Durham, commented with some severity upon the omission. What he wrote would now-a-days pass unheeded and disregarded, but those were

times of *ex-officio* informations; and the late Lord Abinger, then Mr. Scarlett, the Attorney-General of the County Palatine, obtained a rule, which was afterwards made absolute for a criminal information against John Williams, the publisher of the paragraph, for a libel against 'the clergy residing in and near the city of Durham.' We more than doubt whether such a body—having no corporate character or capacity—could, in point of law, be the possible subjects of a *libel*, so as to enable them to be the relators in a criminal information. But the rule was granted, and Williams was defended before a Durham jury by Mr. Brougham.

In the alleged libel occurred the following passage:—'Yet these men profess to be followers of Jesus Christ, to walk in his footsteps, to teach his precepts, to inculcate his spirit, to promote harmony, charity, and Christian love! Out upon such hypocrisy!'—and Mr. Scarlett, who conducted the prosecution, had suggested in his opening address to the jury that the reason why the bells of Durham were silent was because the clergy there too deeply sympathised with the Queen's fate to give open expression to their sorrow. This was indeed to expose an unguarded flank to the enemy and invite a terrible attack, and thus did Mr. Brougham avail himself of the opportunity.

The venerable the clergy of Durham, I am told now for the first time . . . . did nevertheless, in reality, all the while, deeply sympathise with her suffering in the bottom of their reverend hearts! When all the resources of the most ingenious cruelty hurried her to a fate without parallel—if not so clamorous as others, they did not feel the least of all the members of the community—their grief was in truth too deep for utterance—sorrow clung round their bosoms, weighed upon their tongues, stifled every sound—and when all the rest of mankind, of all sects and of all nations, freely gave vent to the feelings of our common nature, THEIR silence, the contrast which THEY displayed to the rest of their species, proceeded from the greater depth of their affliction; they said the less because they felt the more!—Oh! talk of hypocrisy after this! most consummate of all the hypocrites? After instructing your chosen official advocate to stand forward with such a defence—such an exposition of your motives—to dare to utter the word hypocrisy, and complain of those who charged you with it! This is indeed to insult common sense, and outrage the feelings of the whole human race! If you were hypocrites before, you were downright frank honest hypocrites to what you have made yourselves—and surely for all you have ever done or ever been charged with, your worst enemies must be satiated with the humiliation of this day, its just atonement and ample retribution!

In the same speech occurs a passage which we must cite as perfect in its kind. Mr. Scarlett had lamented in his

opening that the clergy had not the power of defending themselves through the public press. Mr. Brougham declared that they had largely used it and 'scurrilously and foully libelled' the defendant. He then thus proceeded :—

Not that they wound deeply or injure much ; but that is no fault of theirs : without hurting they give trouble and discomfort. The insect brought into life by corruption, and nestled in filth, though its flight be lowly and its sting puny, can swarm and buzz and irritate the skin and offend the nostril, and altogether give us nearly as much annoyance as the wasp, whose nobler nature it aspires to emulate. These reverend slanderers—these pious backbiters—devoid of force to wield the sword, snatch the dagger ; and destitute of wit to point or to barb it, and make it rankle in the wound, steep it in venom to make it fester in the scratch.

Nor was this the last occasion on which Lord Brougham defended the memory of the Queen. No one can doubt the sincerity of his conviction of her innocence, and he has seized every opportunity of proclaiming it to the world. In a debate in 1823, on the question of the Administration of the Law in Ireland, brought forward by himself, Mr. Peel had censured his reference to a letter which has been addressed by the Irish Attorney-General, Mr. Saurin, to Lord Norbury, then Chief Justice of the Common Pleas in Ireland, and in which the writer had suggested that Lord Norbury should make use of his position as a judge on circuit to influence those with whom he came in contact against Catholic emancipation. This letter was a private one, which had got into print by some improper means, contrary to the wish and intention of Mr. Saurin, and had been the subject of much public remark. On hearing the attack, Mr. Brougham turned to Mr. Denman and Mr. Williams, who with Dr. Lushington had been his colleagues on the Queen's trial, and, quoting Cromwell's words at the battle of Dunbar, said, 'The Lord hath delivered them into our hands.' When he rose to reply he thus dealt with the accusation, and thus retorted upon his adversary :—

And why, let me ask, am I to be blamed for simply referring to an extensively published letter, as if I had first given it publicity? . . . I entirely agree with the Right Honourable Gentleman, in his condemnation of those who have been concerned in obtaining the letter for the purpose of publishing it. Their conduct may not be criminal by the enactments of the law, but it is morally dishonest, and it is revolting to every honourable feeling. I go heartily along with him in reprobating all such odious practices ; I hold with him that it is shameful, indecent, abominable to encourage them ; I consider it truly detestable to hold out the encouragement of bribes for the purpose of corrupting servants, and inducing them

to violate their first duty, and betray the secrets of their master—aye, and of their mistress too !—I say of their mistress !—of their mistress !—and not only to betray her secrets and to steal her papers, and to purloin her letters, but to produce them for the treacherous, the foul, the execrable purpose of supporting a charge against her honour and her life, founded on the documents that have been pilfered by her servants and sold to her enemies ! the proofs obtained by perfidy suborned, and larceny perpetrated ! and then to carry on a prosecution wholly grounded on matter drawn from sources so polluted, as at once insulted, disgraced, and degraded the nation—a prosecution so foul, so utterly abominable, making the sun shroud himself in darkness, as if unwilling to lend the light of day to the perpetration of such enormous wickedness !<sup>1</sup> And by whom was this infamy enacted ? By the Ministers of the Crown—by the very colleagues of the Right Honourable Gentleman who now pronounces so solemn a denunciation of all that tends to encourage servants in betraying the confidence of their masters and their mistresses !

Lord Brougham is sparing in the use of metaphor, and hardly ever resorts to a simile. But when he does employ metaphor it is always apt and effective. We may give as a specimen his description of the benefits conferred by the Reform Bill, which occurs in a speech delivered by him in 1839, on what was called the Bedchamber Question, so fatal to Sir Robert Peel's attempt to form an Administration in the month of May in that year.

It is my clear and deliberate conviction (and if I had not so believed I never would have consented to the change in 1831 and 1832, much less promoted it)—that if the altered Constitution is fit for the calm, it is yet better suited to the tempest ; if the vessel can ride the more safely in smooth water, since the repairs she then underwent, they were still more necessary for enabling her to bear the storm. Her being made more tight in her rigging, better trimmed, better manned, and by a more contented crew, sounder in her timbers, more secure and more seaworthy in all her fabric, far from rendering her less fit safely to ride through the troubled waters, must make her more powerful to defy the strife of the elements . . . . The vessel has undergone a thorough repair ; not unnecessary for her security in the fairest weather, but in the stress of wind and wave absolutely required to give her a chance of safety.

And, although it is not included in the collection we are reviewing, we cannot resist the temptation of quoting an extract from his noble speech on the State of the Law, where a fine metaphor is beautifully sustained.

The great stream of Time is perpetually flowing on ; all things around us are in ceaseless motion ; and we vainly imagine to preserve our relative position among them by getting out of the current and standing stock-still on the margin. The stately vessel we belong to glides down ; our bark is attached to it ; we might ' pursue the triumph and partake the gale ;' but worse than the fool who

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<sup>1</sup> An eclipse of the sun happened to take place at the time of the opening of the case for the Bill of Pains and Penalties against the Queen,

stares expecting the current to flow down and run out, we exclaim, 'Stop the boat !' and would tear it away to strand it for the purpose of preserving its connexion with the vessel.

It is, however, in the power of description that Lord Brougham peculiarly excels. No one can paint with more force a picture in words. Witness that tremendous passage with which he appalled the House of Lords when, in his speech on the Slave Trade in 1838, he described the horrors of the Middle Passage and spoke of the shark that follows in the wake of the slaveship ; ' and her course is literally to be tracked through the ocean by the blood of the murdered, with which her enormous crime stains its waters.' Our space will not allow us to do more than give a fragment of the picture in which are drawn scenes—

Scenes not exceeded in horror by the forms with which the great Tuscan poet peopled the Hell of his fancy, nor by the dismal tints of his illustrious countryman's pencil breathing its horrors over the vaults of the Sistine Chapel ! *Mortua quin etiam jungebat corpora vivis !* On the deck and in the loathsome hold are to be seen the living chained to the dead—the putrid carcase remaining to mock the survivor with a spectacle that to him presents no terrors—to mock him with the spectacle of a release that he envies ! Nay, women have been known to bring forth the miserable fruit of the womb, surrounded by the dying and the dead—the decayed corpses of their fellow victims.

After this, his affecting account of the sufferings of the people in his speech against the Orders in Council in 1812 seems almost tame. And yet his tale of starving penury and silent woe in the manufacturing districts was told with infinite skill—we fear with not more skill than truth—and touched the hearts of all who heard it. Speaking of Birmingham he asked :—

In what state do you find that once busy hive of men ? Silent, still, and desolate during half the week ; during the rest of it, miserably toiling at reduced wages, for a pittance scarcely sufficient to maintain animal life in the lowest state of comfort, and at all times swarming with unhappy persons, willing, anxious to work for their lives, but unable to find employment. He must have a stout heart within him, who can view such a scene, and not shudder. But even this is not all. . . . A third would say that he was afraid to see his people, because he had no longer the means of giving them work, and he knew that they would flock around him and implore to be employed at the lowest wages : for something wholly insufficient to feed them. ' Indeed,' said one, ' our situation is greatly to be pitied ; it is most distressing ; and God only knows what will become of us, for it is most unhappy !'

He possesses also an unrivalled fertility in strong and apposite illustration. This is one of the most effective ornaments

of a speech, vividly condensing the argument and bringing it home at once to the apprehension. We will give one or two examples. Alluding to the pressure of misery caused by the Orders in Council, and the wild ideas that were afloat of the relief that was likely to flow from the proposed abolition of the East India Company's trading monopoly—when one district, which raised no earthly produce but black horned cattle, had petitioned for a free exportation to the East Indies—and the ancient and respectable city of Newcastle, which grows nothing but pit coal, had earnestly entreated that it might be allowed to ship that useful article to supply the stoves and hot-houses of Calcutta, he said :—

They remind one of the accounts which have been handed down to us of the great pestilence which once visited this city. Nothing in the story of that awful time is more affecting than the picture which it presents of the vain efforts made to seek relief. Miserable men might be seen rushing forth into the streets and wildly grasping the first passenger they met, to implore his help, as if by communicating the poison to others they could restore health to their own veins, or life to its victims whom they had left stretched before it. In that dismal period there was no end of projects and nostrums for preventing or curing the disease ; the numberless empirics every day started up with some new delusion, rapidly made fortunes of the hopes and terrors of the multitude, and then as speedily disappeared, or were themselves borne down by the general destroyer. Meanwhile the malady raged until its force was spent ; the attempts to cure it were doubtless all baffled ; but the eagerness with which men hailed each successive contrivance, proved too plainly how vast was their terror and how universal the suffering that prevailed.

And again, in the same speech, in answer to the question, what had the Orders in Council to do with the scarcity arising from a deficient crop?—

Why, Sir, to deny that those measures affect the scarcity, is as absurd as it would be to deny that our Jesuits' Bark Bill exasperated the misery of the French hospitals, for that the wretches there died of the ague and not of the bill. True, they died of the ague ; but your murderous policy withheld from them that kindly herb which the Providence that mysteriously inflicted the disease, mercifully bestowed for the relief of suffering humanity.

Throughout these orations occur from time to time magnificent bursts of the finest eloquence, and our only difficulty is to make a selection. We might quote from his speech in 1812, at the Liverpool Election, his invective against the policy of Mr. Pitt. 'Immortal in the triumphs of our enemies and the ruin of our allies, the costly purchase of so much blood and treasure ! Immortal in the afflictions of England and the humiliation of her friends, through the whole results of his



twenty years' reign, from the first rays of favour with which a delighted Court gilded his early apostacy, to the deadly glare which is at this instant cast upon his name by the burning metropolis of our last ally!'<sup>1</sup> We might also quote from his speech on the Army Estimates in 1816—a speech which we are told by himself had a greater success than any other made by him in Parliament—his comparison of France in 1792, when 'a prodigious revolution had unchained twenty-six millions of men in the heart of Europe,' with France at the time he spoke, after 'Jacobinism, itself arrested by the Directory, punished by the Consuls, reclaimed by the Emperor, has become attached to the cause of good order, and made to serve it with the zeal, the resources and the address of a malefactor engaged by the police after the time of his sentence had expired.' Or the peroration of his speech in 1823, on abuses in the Administration of the Law in Ireland, which Mr. Wilberforce in his 'Diary' (see his 'Life,' vol. v. p. 186) called 'quite thundering—magnificent, but very unjust declamation.' With the justice or injustice of the attack we are not now concerned, but it is melancholy to think that such a theme should have afforded materials for a long oration in the House of Commons little more than thirty years ago, and that it should have been possible to say there, as Mr. Brougham did say, 'In England, justice is delayed, but, thank Heaven, it can never be sold. In Ireland it is sold to the rich, refused to the poor, delayed to all. It is in vain to disguise the fact; it is in vain to shun the disclosure of the truth. . . . . We are driving six millions of people to despair, to madness. . . . .'

But at the risk of choosing a passage which some may think eclipsed by others more rhetorical and brilliant, we will give an extract from the close of his speech in the House of Commons in 1830 on Negro Slavery, which we think remarkably fine :—

Tell me not of rights—talk not of the property of the planter in his slaves. I deny the right—I acknowledge not the property. The principles, the feelings of our common nature, rise in rebellion against it. Be the appeal made to the understanding or to the heart, the sentence is the same that rejects it. In vain

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<sup>1</sup> The news of the burning of Moscow had arrived in Liverpool by that day's post,

you tell me of laws that sanction such a claim! There is a law above all the enactments of human codes—the same throughout the world, the same in all times—such as it was before the daring genius of Columbus pierced the night of ages, and opened to one world the sources of power, wealth, and knowledge; to another, all unutterable woes. Such it is at this day. It is the law written in the heart of man by the finger of his Maker; and by that law, unchangeable and eternal, while men despise fraud, and loathe rapine, and abhor blood, they will reject the wild and guilty phantasy that man can hold property in man!<sup>1</sup> In vain you appeal to treaties, to covenants between nations: the covenants of the Almighty, whether of the old Covenant or the new, denounce such unholy pretensions.

With this it is worth while to compare his grand and impassioned burst of indignant eloquence, when denouncing in the House of Lords, in 1838, the cruelties practised in our West India Colonies, and calling upon the House to assent to the immediate emancipation of the Negro apprentices. Eleven female slaves had been severely flogged, and then forced by torture to work on the treadmill, 'till their sufferings had reached the pitch when life can no longer even glimmer in the socket of the weary frame.' They died—and

'Ask you,' said the great champion of the cause of African freedom, 'ask you, if crimes like these, murderous in their legal nature, as well as frightful in their aspect, passed unnoticed; if inquiry was neglected to be made respecting these deaths in a prison? No such thing! The forms of justice were, on this head, peremptory even in the West Indies; and those forms, the handmaids of Justice, were present, though their sacred mistress was far away. The coroner duly attended; his jury were regularly impannelled; eleven inquisitions were made in order, and eleven verdicts returned. Murder! manslaughter! misdemeanour! misconduct! No—but "Died by the Visitation of God!" Died by the Visitation of God! A lie! a perjury! a blasphemy! The Visitation of God! Yes, for it is amongst the most awful of those visitations by which the inscrutable purposes of His will are mysteriously accomplished, that He sometimes arms the wicked with power to oppress the guiltless; and if there be any visitation more dreadful than another—any which more tries the faith and vexes the reason of erring mortals, it is when Heaven showers down upon earth the plague—not of scorpions, or pestilence, or famine, or war—but of unjust judges and perjured jurors; wretches who pervert the law to wreak their personal vengeance, or compass their sordid ends, forswearing themselves upon the gospels of God, to the end that injustice may prevail and the innocent be destroyed!'

Lord Brougham is also a great master of the art of ridi-

<sup>1</sup> Some years ago, when a case, at which the author was present, was argued before Lord Denman and several other judges in Serjeants' Inn, involving incidentally the right of a Spanish or Portuguese vessel to carry slaves, the counsel who argued that a certain capture was unlawful, was assuming that, by the Law of Nations, slave-trading

was lawful; upon which Lord Denman said, 'I don't know that; I should like to hear that point argued.' However, it was soon shown that what the laws of the principal nations of Europe had sanctioned, could not be contrary to the Law of Nations; and indeed so Lord Stowell had decided in the case of the French vessel *Le Louis* in 1817.

cule, which becomes in his hands a formidable weapon. He is obviously fond of it, and uses it often with marked effect. But we are bound to say that it is never ill-natured ; there is no venom in the point. The wound may pain for the moment, but it never festers. And there is often an hilarity in the satirical attack which might make even the victim himself join in the laughter of which he is the object. When the Berlin and Milan decrees of Napoleon had sealed the Continent against the imports of British commerce, and we had tried to retaliate by the Orders in Council, which had the effect of stopping our American trade, and involving us in a quarrel with the United States, the Ministers advanced the argument that a substitute for our former market was found in our increasing trade with the Spanish and Portuguese colonists of South America. In point of fact, our *North* American trade had amounted to thirteen millions sterling a year—while the *South* American trade was only one million. By way of illustrating the importance and magnitude of the commerce we had lost, Mr. Brougham drew an amusing picture of the raptures of joy into which Ministers would be thrown if they could command such a market anywhere on the Continent.

Why, Sir, only conceive an event which should give an opening in the north of Europe or the Mediterranean for but a small part of this vast bulk—some change or accident, by which a thirteenth, aye, or a thirtieth, of the enormous value of British goods could be thrown into the enemy's countries ! It what transports of delight would the new President [of the Board of Trade, Mr. Rose] be flung ! I verily believe he would make but one step from his mansion to his office—all Downing Street, and all Duke's Place would be in an uproar of joy. Bless me, what a scene of activity and business should we see ! what Cabinets—what Boards !—What amazing conferences of Lords of Trade !—What a driving together of Ministers !—What a rustling of small clerks !—What a mighty rushing of brokers !—Circulars to the manufacturing towns—harangues upon 'Change, performed by eminent naval characters—triumphal processions of dollars and volunteers in St. James' Square !—Hourly deputations from the merchants—courteous and pleasing answers from the Board—a speedy importation into Whitehall, to a large amount, of worthy knights representing the City—a quick return cargo of licenses and hints for cargoes—the whole craft and mystery of that license trade revived, with its appropriate perjuries and frauds—new life given to the drooping firms of dealers in forgery whom I formerly exposed to you—answered by corresponding activity in the Board of Trade, and its clerks—slips of the pen worth fifteen thousand pounds !—judicious mistakes—well considered oversights—

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<sup>1</sup> Mr. Baring (afterwards Lord Ashburton) had stated in the House of Commons, that by two mistakes at one time, licenses were rendered so valuable, that he would have given that sum for them.

elaborate inadvertencies.—Why, so happily constituted is the Right Honourable gentleman's understanding, that his very blunders are more precious than the accuracies of other men; and it is no metaphor, but a literal mercantile proposition, to say, that it is better worth our while to err with him than to think rightly with the rest of mankind!

In a review of Lord Brougham's speeches, it would be unpardonable to omit mention of his great oration on Parliamentary Reform—one of the most elaborate of all his efforts. But it is too well known to require more than a brief notice. Nothing but the highly-wrought state of public feeling could justify the scene at the close, when sinking on the ground beside the woolsack, the Lord Chancellor exclaimed, 'By all you hold most dear—by all the ties that bind every one of us to our common order and our common country, I solemnly adjure you—I warn you—I implore you—yea, *on my bended knees* I supplicate you—reject not this bill.' This is too theatrical for good taste. It reminds us of the exaggerated manner of the Père Lacordaire in the French pulpit, or of some of the extravagant scenes which have occurred in the French revolutionary assemblies. But the genius of French oratory is essentially different from our own. Let us, however, not be understood to depreciate the eloquence of our neighbours, either in the pulpit or the tribune or at the bar. The country which has produced a Bossuet and a Massillon—a D'Aguesseau, a Berryer, and a Guizot, may well contend with others for the palm of excellence in speech; and it is one of the most melancholy results of the suppression of liberty in France, that her orators are dumb, and that the force of a military despotism, or the restrictions of a jealous police, have crushed into silence the tribune which has been the scene of so many triumphs of eloquence and freedom. *Quousque tandem?*<sup>1</sup>

The speech on Parliamentary Reform has several fine passages, but it is not, throughout, so eloquent as many others delivered by Lord Brougham. It is more in the nature of an exhaustive reply to the arguments that had been advanced in opposition to the bill by Lords Dudley, Winchelsea, Wharncliffe, Harrowby, and Caernarvon, and these were met and parried and retorted with admirable skill. The Earl of Caernarvon, in answer to the question, What Reform had the

<sup>1</sup> It must be borne in mind that this was written in 1858.

Opposition to offer if the proposed measure was rejected? had compared the Ministry to some host, who, having set before his guests an uneatable dinner with which they found fault, should ask them, 'What dishes can you dress your selves?'—and thus Lord Brougham took up the illustration:—

My noble friend says that such an answer would be very unreasonable—for he asks, ingeniously enough, 'how *can* the guests dress a dinner, especially when they have not possession of the kitchen?' But did it never strike him that the present is not the case of guests, called upon to eat a dinner—it is one of rival cooks, who want to get into our kitchen. We are here all on every side cooks—a synod of cooks (to use Dr. Johnson's phrase) and nothing but cooks; for it is the very condition of our being—the bond of our employment under a common master—that none of us shall ever taste the dishes we are now dressing. The Commons may taste it; but can the Lords? We have nothing to do but propose the viands. It is therefore of primary importance, when the authority of two classes of rival artists is the main question, to inquire what are our feats severally in our common calling.

And in answer to the extreme and impossible case put by the Earl of Harrowby, of the population of an enfranchised borough of four thousand souls being all paupers, he said that he had a right to put an extreme case on the other side, to illustrate the nature of representation under the rotten borough system; and he instanced the case of the Nabob Wallajah Cawn Bahadur, who 'had actually his eighteen or twenty members bought with a price, and sent to look after his pecuniary interests as honest and independent members of Parliament.'

'Behold,' he said, 'the sovereign of the Carnatic, who regards nor land, nor rank, nor connection, nor open country, nor populous city; but his eye fastens on the time-honoured relics of departed greatness and extinct population—the walls of Sarum and Gattor: he arms his right hand with venerable parchments, and pointing with his left to a heap of star pagodas, too massive to be carried along, lays siege to the citadel of the Constitution, the Commons' House of Parliament, and its gates fly open to receive his well-disciplined band.'

But our limits compel us to stop. We shall be glad if anything we have said has the effect of making these speeches more generally read. We advise all who wish to qualify themselves as public speakers to study the orations of Lord Brougham. They will find them a storehouse of manly thought, of vigorous argument, and lofty eloquence upon all the great questions of his time. Few may hope to rival the orator who defeated the bill of Pains and Penalties against Queen Caroline, and snapped asunder the chain of Slavery; but none can fail to profit by the example. But above all

things, let no one imagine, that without taking pains and bestowing labour, he can rise to eminence as an orator. He may be a fluent speaker and an expert debater, but an orator he will not be, if he refuses to copy the example and follow the precepts of the great masters of the art. And of all auxiliaries to the tongue, the pen is the best. Cicero tells us, that *stilus optimus et præstantissimus dicendi effector et magister*; and, to use his own beautiful simile, the habit of writing passages in a speech will communicate aptness and force to extempore expression, just as the vessel retains her onward way from the impetus previously given, after the stroke of the oar has ceased. Let us, however, not be misunderstood. We by no means intend to advise a habit of writing out the whole of a speech, and getting it off by heart before it is delivered. Not only does this impose too great a load upon the memory, and render the chance of a break-down almost inevitable, when, from sudden nervousness or any other cause, some passage which forms a necessary link in the chain is forgotten;—but it prevents a speaker from feeling, as it were, the pulse of his audience, and varying his style and tone according to the impression which he sees is made upon them. In most cases a written speech is a failure from this cause. But the subject matter should be beforehand well and thoroughly digested;—there should be the *cogitatio et commentatio* insisted upon by Cicero; and in addition to this, with respect to particular passages, the *assidua ac diligens scriptura*. By this means the speaker will have, laid up in the arsenal of his memory, a supply of weapons ready for any emergency that may arise; and it is almost a truism to say, that sentences considered beforehand in the laboratory of thought, and submitted to criticism and revision by being embodied in written composition, must be more likely to be effective than those which are thrown off hastily in the hurry of debate, when there is no time to pause for the best and most appropriate expression. But, indeed, the habit of composition will have the effect of suggesting to the speaker, at all times, the best word and the best sentence; and will thus assist him whenever the necessity occurs for unpremeditated reply. Cicero amongst the ancients, and Lord Brougham amongst the moderns, have shown with what

advantage familiarity with writing and practice in speaking mutually act and react upon each other.

In conclusion, we may add, that the value of this collection of Lord Brougham's speeches is enhanced by the historical introductions written by himself, and prefixed to several of them, explaining the occasions on which they were delivered, and the subjects to which they refer. The style of these introductions is excellent—clear, vigorous, and correct—and they are in themselves a very useful contribution to the history of the nineteenth century.

## CRIMINAL PROCEDURE IN SCOTLAND AND ENGLAND.<sup>1</sup>

‘Edinburgh Review,’ October, 1858.

DIFFERING as Scotland and England do in many national characteristics, there is nothing in which these differences are more conspicuously shown than in their respective systems of Jurisprudence. By merely crossing a stream, or passing a bleak range of hills, an Englishman will find himself in a part of his native island where civil rights and social status, where questions of liberty and life are determined by laws totally different from his own. That which is mere concubinage in England may amount to a legal marriage in Scotland. What is bigamy in the one country, owing to the non-recognition by the English Courts of a Scotch divorce in the case of an English marriage, may be a lawful second marriage in the other. A child who would be a bastard in England may be legitimate in Scotland. Contracts which could not be enforced south of the Tweed are binding north of that river. In England it is impossible to perpetuate an entail by the mere force of a deed of settlement : in Scotland there are entails which cannot be broken except by Act of Parliament. If a crime be committed, it must be detected, and proved, and punished in a different manner. The verdict of an English jury is unanimous : in Scotland the verdict in criminal cases is decided by a majority. In England, when a man is put upon his trial, he is declared to be either Guilty or Not Guilty : in Scotland the charge may be declared to be Not Proven.

These are a few only of the differences in the jurisprudence of the two countries ; but they are sufficient to show how great

<sup>1</sup> 1. *Report of the Trial of Madeleine Smith, before the High Court of Justiciary at Edinburgh, June 30th to July 9th, 1857.* By ALEXANDER FORBES

IRVINE, Advocate. Edinburgh : 1858.

2. *Report from the Select Committee of the House of Commons on Public Prosecutors.* May, 1856.



a contrast exists between them, and it would be interesting to compare them in a variety of details. This, however, would require a volume; and in the present article we propose to confine our attention to some salient points of contrast in their respective systems of criminal procedure; and we shall avail ourselves for this purpose of the report of a recent trial, which must be fresh in the recollection of our readers, and in which the difference between the two was conspicuously shown.

Such an inquiry may be not without use. For the object of the forms of criminal procedure in both countries must be the same, namely, the protection of the innocent, and the discovery and punishment of crime. To these great ends all rules and formulas ought to be subordinate. To exclude any suspicion of partiality or unfairness, as little as possible should be left to the discretion of those who administer the law. It is therefore necessary that general rules should be laid down and adhered to, however hard their operation may seem to be in particular cases; and it is also of the last importance that these rules should be such as are likely to provide most effectually for the ends in view. On a comparison between the Scotch and English systems, it might perhaps be difficult to decide which of the two, taken separately, is the best adapted for the defence of innocence and the detection of guilt; but we think it is not at all difficult to show that in each there are deficiencies that might be supplied, and faults that might be corrected, by the example of the other; and that from a judicious amalgamation of the two might be formed a system of procedure superior to either as it now stands.

The case to which, for the sake of illustration, we shall chiefly make reference in the following pages is that of Madeleine Hamilton Smith, who was tried at Edinburgh, in July, 1857, for the alleged murder, by poisoning, of Pierre Emile L'Angelier. This has become one of the *causes célèbres* of Great Britain. The relations between the prisoner and the deceased—her former passionate attachment to him—her age, sex, and social position—her unparalleled letters—the dark and impenetrable mystery in which his death is still shrouded, after an investigation which exhausted every possible means of arriving at the truth—the remarkable ability displayed both on the side of the prosecution and the side of the defence—

all these circumstances combine to invest the case with an extraordinary degree of interest ; and it would be difficult to find in the criminal annals of any country a trial more likely to stimulate, and yet baffle, curiosity.

We will state very shortly the leading facts.

L'Angelier was a native of Jersey, and in the year 1855, while in the employment of a mercantile firm in Glasgow, became acquainted with Madeleine Smith, the eldest daughter of Mr. Smith, an architect, who resided in Blythwood Square, in that city. An attachment sprung up between them ; and as the young lady's parents were opposed to an engagement, they corresponded secretly, and had several clandestine interviews. In the month of May, 1856, she surrendered herself entirely to L'Angelier, and her letters to him were of the most compromising character, breathing the warmest language of passionate attachment, and addressing him constantly as her darling husband. But in the course of the following winter a Mr. Minnoch paid his addresses to her ; and in January, 1857, he made proposals of marriage, which she accepted ; and it was afterwards arranged that the wedding should take place in the month of June following. She kept up, however, a most affectionate correspondence with L'Angelier until the beginning of February, 1857, when, becoming jealous of the attentions of her new admirer, he returned one of her notes. She then wrote and proposed that the engagement between them should be broken off ; and became very urgent to have all her letters returned. L'Angelier not only did not comply with her request, but seems to have threatened to show the letters to her father. She wrote, on February 11, in the most agonizing terms of entreaty to him, begging him not to make her ' a public shame ; ' and then, two or three days afterwards, resumed her correspondence with him in her former strain of passionate love. Her bedroom was on the ground-floor, facing the street ; and through the bars of the window she used to pass notes to L'Angelier, and on one occasion, undoubtedly, she received him into the house at night. On February 21 she purchased arsenic at a shop in Glasgow, and on March 6 the same poison at another shop ; on each occasion signing her name in the druggists' book, and on the last accompanied by a female friend. She said at the time that she wanted the

arsenic to kill rats; but when judicially examined afterwards before her trial, she declared that she made use of it as a cosmetic. What really was done with it, there was no evidence to show. As the attentions of Mr. Minnoch became more marked, L'Angelier's suspicions were again roused, and early in March he wrote to her demanding an explanation. To this she sent an evasive reply, and soon afterwards left Glasgow with her family to go to the Bridge of Allan, near Stirling. From that place she wrote on the 13th to L'Angelier, and on the 16th, three days afterwards, to Mr. Minnoch, two letters, which are, we hope, without a parallel in the annals of amatory correspondence, for in each she pledged herself to the person addressed, and left each under the impression that he was the sole object of her love. She then returned to Glasgow, and on March 18, accompanied by a young lady, she made a third purchase of arsenic at the same shop where she had bought the poison on the 6th previously. On the 19th L'Angelier left Glasgow for the Bridge of Allan, and on the same day a note came to his lodgings from Madeleine Smith, appointing an interview for the following night, Thursday, the 20th, which was forwarded to him at the Bridge of Allan. The next day she wrote to him again, thinking he was still at his lodgings in Glasgow, saying that she had waited for him, but he did not come; and adding, 'I will wait again to-morrow night—same hour and arrangement.' She then earnestly begged him to meet her at the time appointed.<sup>1</sup> This letter was received by L'Angelier, at the Bridge of Allan, on the morning of Sunday, the 22nd, and on the evening of that day he arrived at his lodgings in Glasgow. He quitted them about nine o'clock, and was not again seen by any one who could give evidence of the fact at the trial, until he returned to his lodgings, about half-past two in the morning, when he rang the bell violently, and said he was very ill. He rapidly became

<sup>1</sup> In this rapid sketch we of course cannot attempt an analysis of the evidence, but there was much controversy at the trial about the date of this letter, which was a most important fact to ascertain. The post-mark was 'Glasgow, March 21, 1857,' and the prosecution assumed that the 'to-morrow night,' alluded to in it, was Sunday the 22nd. But we think that the balance of pro-

bability is greatly in favour of the view contended for by the then Dean of Faculty, now Lord Justice Clerk, who was counsel for the prisoner; namely, that the letter was *written* on the Friday, but *posted*, or at all events *stamped*, on the Saturday, and that the appointment made in it was for the Saturday and not the Sunday night. The letter itself was not dated.

worse, and died in a few hours, his body, on a *post mortem* examination, showing unmistakably that his death was caused by his having taken a large quantity of arsenic.

The question was, by whom was that arsenic administered? The jury, by a majority, found the charge against Madeleine Smith, who was tried for the murder, Not Proven. The nature of the proceedings in this remarkable case will exemplify the remarks we are anxious to make on the criminal jurisprudence of this country.

The subject of criminal procedure naturally divides itself into two parts: 1. The preliminary steps taken where a crime is alleged to have been committed, and before the accused party is brought to trial: 2. The conduct of the trial itself.

With respect to the first of these two divisions the Scotch system has been so clearly and ably detailed by Mr. Moncreiff, while holding the office of Lord Advocate under Lord Palmerston's Government, in his evidence given in 1855 before the 'Select Committee of the House of Commons on Public Prosecutors,' that we cannot do better than quote the passage at length. He says:—

The system proceeds upon the principle that it is the duty of the State to detect crime, apprehend offenders, and punish them, and that independently of the interest of a private party. The Scotch system acknowledges the right of a private person to prosecute; but the duty of the public prosecutor, is altogether irrespective of that. The staff, if I may so call it, of the public prosecutor is as follows: the Lord Advocate is the head of the criminal department; under him he has four advocates-depute, and these do the business that a barrister properly does in criminal cases; their duty is to advise in the proceedings while they are going on, in the collection of evidence in the country, and, when the evidence is completed, to draw the indictment, and to attend the trial, and take the ordinary part in procuring a conviction.

The means of detecting and punishing crime in the country consist, in the first place, of the Procurator Fiscal; there is a Procurator Fiscal for each county, and a Procurator Fiscal for some of the larger boroughs. In the counties he is appointed by the sheriff, in the boroughs he is appointed by the town council, but he is directly under the orders of the Lord Advocate and his deputies. The mode in which the system operates is this. The Procurator Fiscal receives information that a crime has been committed; his duty is to make immediate inquiry; if any person is suspected, he applies to the sheriff for a warrant to apprehend him; he does apprehend him, and the party is taken before the sheriff for examination, and upon that occasion the declaration is taken; the party is cautioned that he need not speak unless he likes, and then he is asked by the Procurator Fiscal, in the presence of the sheriff, any questions which seem to be material; and his answers are taken down and may be used against him in evidence. Then, if there appears to be ground for an immediate warrant to commit, he may be committed at once; the usual course is to commit him for further examination, and then the Procurator Fiscal takes what is called a pre-

cognition ; that is to say, he examines the witnesses whom he can discover, not publicly but privately ; they are not properly depositions, but they are statements taken down by the Fiscal and signed by the witnesses ; and if the case is at all of importance to warrant it, he sends this precognition to the Crown agent. The witnesses may be examined on oath, but this is not usually done, unless the witness is reluctant. The precognition is sent by the Crown agent to the advocate-depute of the district in which the crime has been committed ; it is his business to read it over, and if he is satisfied, may order no further proceedings, or he sends down to the Fiscal to have the party committed until liberated in due course of law, if that has not been already done, and proceeds to indict. Then the question is where the party is to be tried. He may be tried before the sheriff, or before the circuit, or before the High Court of Justiciary. If it is a small offence, such as an ordinary theft, the general course is, to send the party to be tried by the sheriff, either with or without a jury, and then the Procurator Fiscal attends and prosecutes. If, on the other hand, the party is an old offender, and he is indicted at the circuit, the advocate-depute attends. If it is a serious offence, or committed within the home circuit, he is tried before the High Court of Justiciary ; and in that way it appears to me that the machinery works remarkably well. How it would do upon a larger scale, I can hardly say ; but from Scotland being limited in extent, so far as my experience goes, I think it answers all the objects of such an institution very well indeed. I can say, from my own experience, that it operates fully as much in the protection of innocent persons against unfounded accusations, as it does in the detection of crime ; and, for my own part, I think that the want of publicity in the first examinations, if you have, as we have, a sufficient check in the superintendence, such as I have described, tends very much indeed to the detection of the guilty : and I do not believe that our Procurators Fiscal would think it any advantage to have the witnesses examined in public. That is the system which we follow.

Mr. Moncreiff further stated, that the Procurator Fiscal is usually a leading attorney in the county town ; that he is paid by salary in some cases, by fees in others ; the advocates-depute are four, besides one for the Sheriff's Court ; they are practising barristers, and reside in Edinburgh ; and in the event of the advocate-depute refusing to prosecute, the Lord Advocate may be applied to, and he frequently orders him to report upon the case. All cases of any importance are considered personally, by the Lord Advocate or the Solicitor-General. Sometimes also, but very rarely, prosecutions by private parties take place.

To this we may ourselves add that even where the Crown counsel do not think fit to prosecute, and the accused person is discharged from commitment at their instance, the injured party has still the right to prosecute at his own instance, with concurrence of the Lord Advocate, as it is technically called. This concurrence the Lord Advocate may be compelled by the High Court of Justiciary to grant, and in practice it is never refused. But the conduct of the case is then entirely under

the control of the private party, who is liable for damages and expenses if it turns out that there is no reasonable ground for the prosecution. And he may be compelled to take an 'oath of calumny' that he has just reasons to prosecute, and that the facts charged in the indictment are, so far as he knows, true. In all cases the information or complaint to the Procurator Fiscal, by the express direction of the Statute of Anne in 1701, must be in writing, and signed by the party making it, without which a suspected person cannot be arrested; and the party so signing his name becomes responsible for the whole damages and expenses consequent on the imprisonment, if it proves to be groundless and malicious. But the Procurator Fiscal may be the informer by presenting to the Sheriff, who issues the warrant, a petition describing the offence and signed by himself.

In England the death of L'Angelier would immediately have been the subject of a coroner's inquest; but in Scotland there is no coroner. The only process at all analogous to it on that side of the Border is the investigation by the Procurator Fiscal put in motion by information he receives, that there are circumstances attending a decease such as to justify the suspicion of foul play, and amounting generally to a charge against some particular person. We think that the absence of a coroner's jury is a decided defect in our Scotch jurisprudence, although we are bound to add that some of the highest legal authorities in Scotland are of a different opinion and would object to its introduction. In England every death which does not manifestly proceed from natural causes, including all cases of sudden death by accident or otherwise, is inquired into publicly by the coroner. He is *ex officio* bound to ascertain, as far as can be ascertained by evidence, what was the cause of death; and provided only he has notice of it, his duty requires him to summon a jury without waiting until he is called upon to do so by the friends or relatives of the deceased. This is an immense safeguard to the public, as it insures a searching investigation of the matter while the facts are recent,—the recollection of every one interested in the inquiry is fresh—and minute links in the chain of evidence can be most easily supplied. It may be said, indeed, that in Scotland also a similar examination takes place when the

case is brought under the notice of the Procurator Fiscal, and that in England the coroner can only act when he knows that a death has occurred under suspicious circumstances, and this knowledge can only be obtained by information from others. But there is a wide difference between the two cases. An English coroner's inquest is primarily directed to investigate the *fact* of death and the cause of it; a Scotch precognition is directed against a supposed criminal, and if there be no suspected person, on whom does the precognition attach? The English form proceeds from the facts to the person of the criminal; the Scotch form proceeds from the suspected person to the facts. In Scotland the Procurator Fiscal does not act *ex mero motu*, like the coroner in England, whenever he hears of a suspicious death. He waits until something like a charge is made; and we know how unwilling persons often are to come forward and make such a charge, when the circumstances amount to no more than a suspicion of guilt. The consequence is that crimes must not unfrequently escape punishment from the absence of inquiry into the cause of death. It would be easy to adduce many cases in point upon this subject, but we will instance only one, which, we believe, has not hitherto been published, and which will be sufficient for our purpose.

Some time ago, in one of the southern counties of Scotland, a gentleman and his wife—both of them somewhat advanced in years—resided on their own estate at a short distance from a market town. One daughter of about thirty years of age lived with her parents—the other children were settled in different parts of the world. This young lady was known for her bold and eccentric habits, and there was something coarse and repulsive about her. She had previously inherited a small independent property from an aunt, who died suddenly whilst she was staying in the house; and she was entitled to a share of her father's estate on his death, which was then to be sold to pay off incumbrances and provide for the several children.

The father had long been an invalid, and it was therefore without surprise that the neighbours heard that he was attacked with a violent illness; but his wife, who was previously in good health, suffered at the same time and in the

same manner from vomiting and internal disorder. A medical man was called in, and he continued to attend daily for a month at the house. The symptoms were those of poisoning by arsenic, as he himself admitted when afterwards questioned on the subject. He prescribed such remedies as he deemed proper, and the symptoms were checked for a time. But these remedies, and all the food which the patients took, were administered to them by the daughter, who never quitted the bedside of her parents. No second medical adviser was called in, and after a life-and-death struggle for about thirty days, both the father and mother expired nearly at the same time, and lay side by side in the same bed. The daughter exhibited the most violent and even extravagant grief, and flung herself on the dead bodies of her parents. No further inquiry whatever was instituted into the cause of their illness and death, although the circumstances were thought suspicious by all who knew them; and there is no doubt that the physician was in his own mind satisfied that there had been foul play. These suspicions were strengthened in a remarkable manner by the conduct of the young lady herself after she became her own mistress. She hastily got possession of her share of the property—flung herself into the arms of a profligate apothecary, with whom she eloped to France,—and after having spent the whole of her patrimony in two or three years, she terminated her own existence by poison.

This was a case which demanded the most searching investigation. The suspicions of the neighbours were aroused, and the medical attendant did not scruple in private to avow that the symptoms of the illness of both the parents were those of arsenical poisoning; and yet no steps were taken to clear up the mystery by a judicial inquiry. If such an event, with all the attendant circumstances, had happened in England, there would have been, beyond all doubt, a coroner's inquest held on the remains. The rumour would have reached that officer's ears even if, as is most likely, a direct communication were not made to him on the subject: and it would have been his duty immediately to summon a jury, and investigate the case. To set the inquiry in motion it would not have been necessary to make any accusation, but simply to state that the deaths were suspicious; and then the evidence ad-



duced would have pointed out the suspected party, who would have been apprehended, and, if the verdict of the jury justified it, would have been committed for trial. But in this case the fact of death by poisoning was never proved or legally investigated, and in the absence of that essential fact no proceedings were instituted against persons whom it was painful even to suspect of so horrible a crime.

But if the want of a coroner is a disadvantage, Scotland has the superiority over England in this important respect that she has a Public Prosecutor. Criminal trials there are conducted either by the Lord Advocate, or one of his advocates-depute, and he is thus directly responsible for the punishment of offences and the due fulfilment of the ends of justice. This duty he has discharged for nearly three centuries, if not longer; for by the Act of 1587 it is declared that 'the Thesaurer (Treasurer) and Advocate pursue slaughters, and other crimes, although the parties be silent, or wald otherwise agree.' The mode in which he acts has been already explained, and we will now proceed to consider some of its advantages, as contrasted with the absence of such an officer in England.

There the whole system, or rather want of system, in the conduct of prosecutions, is anomalous in the extreme. The conclusion at which the Commissioners on Criminal Law, in their Report of 1845, arrived, was, that 'The existing law is by no means as effectual as it ought to be: the duty of prosecution is usually irksome, inconvenient, and burthensome; the injured party would often rather forego the prosecution than incur expense of time, labour, and money. The entrusting the conduct of the prosecution to a private individual opens a wide door to bribery, collusion, and illegal compromises.' Lord Denman has recorded his opinion that 'our own procedure for the purpose of preliminary inquiry is open to great objection. The injured party may be helpless, ignorant, interested, corrupt; he is altogether irresponsible, and yet his dealing with the criminal may effectually defeat justice. On general principles it would evidently be desirable to appoint a public prosecutor.'<sup>1</sup> Lord Brougham stated before the Committee on Public Prosecutors (1855) that he

<sup>1</sup> Eighth Report of the Commissioners on Criminal Law, 1845.

agreed in this view ; and Lord Campbell said that ' At present there is this great evil from the want of a public prosecutor in England, that the criminal law is often most shamefully perverted to mere private purposes.' To this the present Lord Chief Justice Cockburn, then Attorney-General, added, that Lord Campbell had twice publicly from the bench addressed him in court as Attorney-General, and pointed out the necessity of having a public prosecutor to prevent scandals in the administration of justice.

It would be strange indeed if it were otherwise, considering the hap-hazard mode in which criminal prosecutions are taken up and conducted in the English courts. It would be difficult to make an intelligent foreigner believe that in ordinary cases it is left very much to chance to determine, not only who the prosecutor shall be, but whether there shall be any prosecution at all. Except in cases of high treason or sedition, or offences against the revenue, it is no part of the official duty of the Attorney-General to institute a prosecution, although it frequently happens that he does so when a crime of more than usual magnitude has been committed, or when the offence is one in which the public take an unusual degree of interest. Such, for instance, was the prosecution of the surgeon Palmer for poisoning with strychnine, and the still more recent cases of the delinquent bankers, the directors of the Royal British Bank, and the Claimant in the Tichborne case.<sup>1</sup>

But in all other cases it is left to the committing magistrate to determine who the prosecutor shall be. Sometimes it is the party injured, or, if he be dead, his friends or representatives. Sometimes it is the policeman who has been employed to investigate the case, and get up, as it is called, the evidence. And often the prosecution is dropped altogether because nobody feels sufficient interest to go on with it. It must also be borne in mind that although the Crown is always nominally the prosecutor, and the two parties at the trial are the Queen and the prisoner, yet in reality where there is a private prosecutor, the conduct of the case is left entirely to him, and he employs his own attorney to prepare the evidence and retain counsel.

Moreover there is no settled rule applicable in all places alike ; and in consequence there is no uniformity of system

<sup>1</sup> I have added the last words in 1874.

throughout England. Mr. Waddington, Under-Secretary of State for the Home Department, stated in his evidence that an uncertainty exists as to the mode in which a particular prosecution may be followed out—it varies in every borough; the practice of the metropolitan districts is different from that of the counties. It is, he says, irregular and anomalous, although he was not prepared to state from facts within his cognisance that there is any general failure of justice, but from the irregularity of the system such might be expected.

Surely such a state of things as this is discreditable to English jurisprudence. It may be allged indeed of it, as has been so often said of many of our institutions, that the practice is better than the theory. And this is true; for in theory it seems utterly indefensible, and yet we know that prosecutions are conducted with fairness, and convictions are obtained, and crime is punished and repressed. But it is impossible, in the face of such evidence as has been here adduced—the evidence of men above all others competent to form an opinion upon the merits and demerits of our system—to maintain that no change is necessary, and to acquiesce in the conclusion that, after all, it works well. It does *not* work well when it produces such results as have been shown to exist, and all that can be said in its favour is, that much more evil might be expected to flow from it than experience tells us is actually the case. There is a corrective in public opinion declaring itself through the medium of the public press, which prevents many abuses which would otherwise be the almost inevitable consequence of such defects.

Now contrast the laxity of the English system with the vigilance and precision of the Scotch. And it has this further advantage, that it affords the strongest possible security against persons who are not guilty having to undergo the pain and disgrace of a criminal trial. A responsible public officer of the highest legal attainments, has the case and the evidence laid before him, and if he is of opinion that the facts do not warrant an indictment, the accused person is at once set at liberty. In England there is indeed the intervention of the grand jury, but between the commitment of a prisoner for trial by a magistrate and the preferring of the bill against him before the grand jury, *a period of seven or eight months*

may elapse, during which he will be incarcerated, although the grand jury may then determine that there is not even a *prima facie* case against him. And it must be confessed that an innocent man is not always safe in the hands of that body, invaluable as the institution is on many accounts. A striking instance of this was mentioned by Lord Brougham, in his evidence before the Committee of the House of Commons in 1855 :—

Mr. Blundell, of Ince, a Roman Catholic gentleman of old family and considerable estate in Lancashire, was put upon his trial at Lancaster for murder, and held up his hand in the dock, as was then the practice. The murder which the grand jury conceived to have been committed by him was this : There was a road in repair upon his estate, and his bailiff had omitted, in throwing a rope across the road in order to prevent access, to put a lantern, and an old woman coming from market at night in a donkey cart, tripped over this rope, for want of a light, and broke her neck, and unfortunately was killed. The grand jury considered, in the first place, that this was murder ; and in the next place, that it was murder by Mr. Blundell, perpetrated by the negligence of his bailiff. The case was opened before Mr. Baron Wood, who, after he had heard the facts, immediately said, ‘Are the grand jury discharged ? go and see.’ The grand jury were discharged, and could not be found. ‘I am very sorry for it,’ he said, ‘this is a most shameful case.’ Mr. Blundell was, of course, acquitted ; but he went down to the grave with the stigma of having held up his hand on a charge of murder, in the dock, among felons at the Lancaster assizes.

Public attention has lately been directed to the question of the expediency of an entire change of system in this respect, and a Select Committee of the House of Commons was appointed in 1855, for the special purpose of considering the subject. The plan which they propose in their report, is in substance the following :—

They recommend that agents should be appointed, one to each of a certain number of districts, for the purpose of preparing and conducting prosecutions to the time of trial, and that these districts should be as coextensive with the jurisdiction of the existing County Courts as may be, regard being had to the integrity of counties. The duty of these district agents should be to prepare and conduct prosecutions through the stages preliminary to trial. Where it comes to their knowledge that an offence has been committed, and that no steps have been taken to bring the offender to justice, it will be their duty to take the necessary steps for bringing the offender before a magistrate ; or if the party have already been apprehended, and the case is one of any difficulty or importance,

they are to take upon themselves the further conduct of the prosecution, and prepare the evidence.

The Committee propose that a counsel of not less than ten years' standing shall be appointed for each circuit, to be the advising counsel for that circuit; and that to him the agents for the districts within that circuit shall resort for advice and directions in all cases of more than ordinary difficulty. These advising counsel are to communicate with, and act under the directions of, the Attorney-General, forming as it were the staff of that officer in the administration of criminal justice.

Individuals, however, instituting prosecutions are not to be prohibited from employing their own attorneys and counsel, or to be compelled to resort exclusively to the public prosecutor. But with a view to prevent the compromises which are sometimes resorted to for purposes of private interest, and to ensure the effective administration of justice, they recommend that it should be compulsory on an attorney employed to conduct a prosecution, to give notice to the district agent of his intention to prefer an indictment, and that the latter should have authority to intervene.

In Scotland, as we have already shown, the Lord Advocate discharges the functions of public prosecutor, and it does not seem that any change in that respect is necessary or desirable. But the population of England is immensely greater than that of Scotland; and the duties of the Attorney- and Solicitor-General are so multifarious and heavy, that we much doubt whether it would be expedient, or indeed possible, to impose upon them the burden of such an office as that of Public Prosecutor. Still less would it be possible for the Lord Chancellor to undertake the duty. Our own opinion is, that some great officer of state ought to be appointed to superintend the whole department of Criminal Justice, with functions in some degree analogous to those of the French Minister of Justice; and if it be not thought expedient to carry into effect the resolution of the House of Commons which recommended the creation of a new department of Government for this purpose, we conceive that the same duties might be effectually performed by some augmentation of the powers and staff of the Secretary of State for the Home Department.

The next point deserving of notice in the Scotch and English systems is the difference in the mode of examining the suspected party before he is finally committed.

At the trial of Madeleine Smith, the first witness called was the sheriff-substitute of Lanarkshire, who gave the following evidence :—

I know the panel. She was judicially examined before me, and emitted a declaration on the 31st March. She was examined on the charge of murder before her declaration was emitted. The greater part of the questions at the examination were put by me. The statements made in the declarations were all given in answer to questions. The answers were given clearly and distinctly. There was no appearance of hesitation or reserve. There was a great appearance of frankness and candour. The declaration is of considerable length.

—and the declaration was read in Court as if it had been a spontaneous and continuous narrative, without the questions put by the sheriff, to which, in fact, it was a series of answers.

The law of Scotland requires that the declaration must be taken in the presence of the magistrate and two other witnesses, who subscribe with him the attestation at the end, setting forth that it was freely and voluntarily emitted in the sound and sober sense of the declarant. The precognition of the witnesses is taken afterwards, *in the absence of the accused*, who is not allowed to be present himself, or to have any one to attend on his behalf to cross-examine them, it being one of the directions of the Justiciary Court, in 1709, for the taking of precognitions, that ‘none be present with the clerk at the examination of the persons cited by the sheriff to give up *dittay*.’

It is urged in defence of this system that it has the advantage of preventing publicity to the injury of the accused, in cases where it turns out that the charge is unfounded, and no further proceedings are taken. And we may freely admit that this is true. But, on the other hand, there are grave objections to such a mode of preliminary examination. It is too much like putting the accused *au secret* under the old French system before the Revolution. It is essential to the purity of the administration of justice in all countries, and at all times, that there should be no secret tribunal before which an accused party can be called upon to appear to give evidence against himself. Every step in the inquiry when he is present should be taken openly and *coram populo*. And this

on two grounds: first, as giving him protection against the possibility of any improper practices; and next as affording the best security that the judicial officer will perform his duty, not only with fairness, but efficiency. The Scotch law, indeed, requires the presence of two other witnesses besides the sheriff or sheriff-substitute, for the purpose of proving that the declaration was 'emitted' freely and voluntarily, and as a guarantee of its genuineness; but this does not deprive the proceeding of the air of privacy and mystery which hangs over it.

It is difficult therefore for those who are accustomed to the publicity that prevails in England to acquiesce in the conclusions of a high authority on Scotch Criminal Law, that 'the strict seclusion of the prisoner in the interval between arrest and commitment to stand trial, and the *ex parte* nature of all proceedings in precognition, is essential to the great objects of Criminal Jurisprudence, the conviction of the guilty, and the speedy liberation of the innocent prisoner.'<sup>1</sup> On the contrary, we should be much more disposed to agree with the opinion of Lord Brougham, who, in his evidence before the Committee on Public Prosecutors, in 1855, said:—

There are great inconveniences, no doubt, in the publicity of the examination; there is very great hardship to the party brought before the magistrate in its publicity; there is very great annoyance and hardship to the witnesses and to the prosecutor, who are brought before the magistrate, no doubt; but against all that, one cannot help setting the great advantage of the publicity of the proceeding, both preventing any malpractices by placing the magistrate, who is then the Court, in the eye of the public, and also by the great benefit which arises with a view to police, from its tendency to discover evidence, and to enable the parties prosecuting to be put upon the traces to find witnesses; so that, upon the whole, I have no doubt whatever that the benefits exceed the disadvantages of a public examination.

Lord Campbell has graphically described the state of things that existed in this country in the last century:— 'Formerly the squire sat in his hall, and he had for his clerk his gamekeeper, and they had in the poacher before them, and they did with him what they liked.'<sup>2</sup> And although we perfectly well know that the privacy of the examination in Scotland does not lead to abuse like this, it is very desirable that so delicate a matter as the interrogatory of a party as a

<sup>1</sup> Alison's Pract. Crim. Law, chap. v. 14.

<sup>2</sup> Evidence before the Committee on Public Prosecutors, 1855.

witness against himself should be surrounded with all the safeguards which publicity can alone supply.

The practice, however, is not peculiar to Scotland. It prevails in France, and Germany, and Italy, and indeed is common to all the countries of Continental Europe. In France the interrogatory is conducted privately by the *juge d'instruction*, and the accused is not confronted with the witnesses, who are examined separately; nor is he allowed at this stage of the proceedings to be assisted by counsel. And the old French law went so far as to require him to take an oath that he would speak the truth when questioned against himself.

In England nothing of the kind is known. An accused person there is brought before a magistrate in open Court, confronted with the witnesses, and asked whether he wishes to say anything, while he is at the same time cautioned that what he does say will be taken down in writing and hereafter made use of against him.<sup>1</sup> In Scotland, also, he is told that he need not speak unless he likes, and he is warned that his declaration will be used against him; but the difference between the two systems in this particular is not unimportant. In England no questions are addressed to the prisoner. If he makes any statement, it is not in answer to interrogatories, but is a spontaneous and voluntary act on his own part. In Scotland we see that, after being cautioned that he need not speak, he is asked by the Prosecutor Fiscal 'any questions which seem to be material.' Either, therefore, he remains silent altogether, or he answers the questions put to him, or he answers some of them and declines to answer others. It will be found, we believe, in practice a rare thing for a man charged with an offence to remain wholly silent when pointedly interrogated, not as to its actual commission, but as to circumstances connected with it, the significance of which he may not immediately perceive. And if he does answer, the law is in fact extracting from him evidence against himself.

It may, however, be doubted whether the law of England

<sup>1</sup> It is, however, right to notice, that by a late statute (11 & 12 Vict. c. 42. § 19.) the justices have the power to order that no person shall be present

without their consent, 'if it appear to him or them that the ends of justice will be best answered by so doing.'



does not carry tenderness towards a man accused of a crime too far. Provided he is not betrayed into a confession by holding out improper inducements, or coerced into it by practising upon his fears, there seems to be no reason why whatever he says against himself should not be put in evidence at his trial, although he may have had no warning that it will be made use of against him. It is only under an utterly corrupt system of jurisprudence that an innocent person will falsely criminate himself, thinking it perhaps safer to confess an offence which he has not committed, and sue for mercy, than to abide the result of a trial which he feels certain will terminate in a conviction. The Greeks and Romans resorted, in the examination of *slaves*, to the use of torture, and in the Middle Ages, and indeed in later times in Europe, this was the approved method of question in the case of all persons accused of crime. It does, indeed, seem marvellous that it should never have occurred to people in those days how utterly fallacious torture must be as a test of truth. It becomes a mere question of physical endurance, and under the pressure of intolerable pain the most innocent person may confess himself guilty, preferring speedy death to the prolonged agony of the rack or the wheel. At the present day in England the Courts of Law go to the contrary extreme, and the slightest inducement either of fear or hope held out to an accused party by any one whose position or authority may be supposed to exercise an influence over his mind, renders a confession inadmissible.<sup>1</sup> Every one who pays attention to the reports of criminal trials in the London newspapers, must be familiar with the way in which policemen who give evidence of confessions made by prisoners are attacked by counsel, and the severity with which they are handled when they have put questions to the accused with a view to elicit some statement from him ; so that we can hardly be surprised at the answer which on one occasion a constable gave to the Court when he was asked whether the prisoner had not, while in his custody, made some admission of his guilt. He said, ' Oh no ; he began to say something about it, but I knew my

<sup>1</sup> One of the most astounding instances of inducement held out to a prisoner to confess, occurred at the trial of Sir Nicholas Throckmorton for high treason, in 1554, when Lord Chief Justice Bromley thus addressed him : ' How say you, will you confess the matter, and it will be best for you ? '.

duty better, so I stopped him.' It is needless to add, that the constable was reprimanded for his officiousness ; but his mistake was excusable, for he had so often heard his brethren assailed, and been so often assailed himself, for deposing to confessions, that he was determined to be on the safe side for once. We think that unless a confession, to whomsoever made, has been extorted by threats, or induced by a distinct promise to stay further proceedings, it ought to be received in evidence at the trial. And we assert this on the broad and intelligible ground that except in the cases already mentioned, it is absurd to believe that any sane man in this country will falsely accuse himself of a crime of which he is not guilty. At all events, in all cases it should be a question for the judge, at his *discretion*, to determine whether under the circumstances the statement ought to be submitted to the jury.

With respect, however, to the general question of the expediency of judicially interrogating a person accused, it is difficult to see why, if this course of procedure is proper before the sheriff in Scotland, it should not also be allowed at the trial, as it is in France and other countries of Europe, where the judge examines the prisoner, and uses all his dexterity to make him convict himself of the crime with which he is charged. It is impossible not to be struck with the severity of the cross-examination which—not the witness but—the prisoner there has to undergo from the presiding judge, and the persevering ingenuity with which the latter tries to entrap him into admissions fatal to himself. He adjures, he apostrophises, he scolds, and does everything in his power to make him entangle himself in inconsistencies, and so betray his guilt.

'Is it not scandalous,' says De Quincy, in one of his essays, the subject of which is the trial and death of the Maid of Orleans, 'is it not humiliating to civilisation, that even at this day, France exhibits the horrid spectacle of judges examining the prisoner against himself ; seducing him by fraud into treacherous conclusions against his own head ; using the terrors of their power for extorting confessions from the frailty of hope ; nay, which is worse, using the blandishments of condescension and snaky kindness for thawing into compliances of gratitude those whom they had failed to freeze into terror ? Wicked judges ! Barbarian jurisprudence ! that, sitting in your own conceit on the summits of social wisdom, have yet failed to learn the first principles of criminal justice : sit ye humbly and with docility at the feet of this girl from Donrémy, that tore your webs of cruelty into shreds and dust. "Would you examine me as a witness against myself?" was the question by which many times she defied their arts.'

It is, however, a mistake to suppose that the French law *enjoins* the interrogatory of the accused as a duty which the judge must perform. It only *permits* it, and reserves to him the right of choosing the moment when he thinks fit to exercise it. But inveterate usage has made it part and parcel of the system of procedure, and it is almost universally the practice to commence the trial by questioning the accused before the witnesses are called. Counsel are expressly forbidden to answer for him, or to suggest anything to him at this stage of the proceedings; but of course he is at liberty, if he likes, to refuse to answer the questions put to him, and in that case the evidence of the witnesses is taken at once.<sup>1</sup>

Having regard, then, to the universality of this practice throughout the continent of Europe, it becomes a question well worth considering, whether it is right or wrong, and if right whether it ought to be introduced in Great Britain. Is it prejudice or sound reason that regards the questioning of a prisoner at his trial, as contrary to the principles of justice? And if not contrary to justice, is it not an efficacious means of arriving at the truth, and punishing the guilty?

It cannot be denied that the general impression is, that such a mode of proceeding is unfair. It seems to take advantage of a man who is no longer a free agent, to make, or endeavour to make, him supply against himself proofs which the law cannot otherwise obtain. We are apt to regard a criminal trial as a sort of duel between two adversaries—the law on the one side and the accused on the other—and it would be preposterous to ask one of two combatants to furnish weapons to the other to be used against himself. But is there not a fallacy in this mode of viewing the question? With regard to crimes, can there be any such thing as a right of concealment? The law may be powerless to *force* a confession—or it may, as in the case of torture, produce one which will be of no value, because it must always be uncertain whether it has not been wrung by agony from the lips of innocence—but ought it to refuse to interrogate the accused who, perhaps, alone of all persons in the world can give the information requisite to determine whether he is or is not guilty? We must of course assume, in the argument, that

<sup>1</sup> Loi, 28 Mai, 1836 : art. 26.

the examination is so conducted as to exclude the possibility of confounding innocence with guilt; and it is difficult to conceive how the answer given by an innocent party to questions put to him, can be more dangerous to him than silence—which is one of the strongest presumptions of guilt. It is probable, indeed, that in some cases even when innocent, he would be unable to give a satisfactory explanation of facts which wear a suspicious appearance against him, but this would afford no greater presumption of guilt than exists where, in the same state of facts, he is not questioned at all. For the circumstantial evidence remaining the same, the presumption of guilt is the same, whether the prisoner does not voluntarily offer to explain the facts, or in direct answer to a question says that he cannot explain them. It is, indeed, possible to suppose cases where a person may be stupid enough or frightened enough—although innocent—to give answers which may strengthen the suspicions against him. But this would generally happen only where the examination was badly conducted—or in the confusion of mind created by a sudden accusation—and is to the last degree unlikely to be the case at a trial presided over by a humane and enlightened judge, bent only on discovering the truth, and more anxious that the innocent should escape than that the guilty should suffer.

Even in France the theory of the system is, that the examination should be conducted with the most scrupulous fairness towards the accused. '*Je n'ai pas besoin,*' says M. Berriat Saint-Prix, '*de parler de la loyauté qui doit présider à l'interrogatoire;*' and he quotes the rule laid down by an old French jurist on the subject:—'*Les questions que le juge fait à l'accusé doivent être claires, précises et sans équivoque : il doit surtout éviter de se servir de ruses et de discours captieux pour surprendre l'accusé. Outre que cette voie ne convient point à la dignité d'un magistrat, c'est qu'en usant de ce moyen, il paraît plutôt agir avec passion qu'animé du zèle et du bien de la justice.*' But it must be admitted that this rule is not always observed. French judges, while rapidly interrogating the prisoner, are apt to be carried away by their feelings, which are excited by the sort of altercation that goes on between them, and questions are often

put which, to English notions at all events, seem to the last degree unfair.

In his evidence before the Committee on Public Prosecutors, already referred to, Lord Brougham said that the worst of all the practice in the French procedure is 'the torture and question which the prisoner is put to upon his trial by the judge.' Upon which the Attorney-General (Sir A. E. Cockburn) strongly and truly remarked, that the judge constantly converts himself, in the sort of intellectual contest which goes on between them, into an advocate. But both these high authorities confined their objection to the conduct of the examination by the *judge*. The Attorney-General asked Lord Brougham whether the interrogation of the prisoner might not be the very best means of ascertaining the true state of the case—not allowing the judge to interrogate the prisoner—whereby he forgets his judicial impartiality—but allowing the advocate, the public prosecutor, to put the questions? To which Lord Brougham answered, '*I am perfectly clear that some change in our law upon this subject, some relaxation, is absolutely necessary.*' And he added that his objection to the French procedure was that it was the worst possible mode of doing it.

The next point of difference between the Scotch and English systems to which we will advert, is the notice required to be given to the accused, of the indictment on which he is to be tried, and the names of the witnesses who will appear against him. In Scotland a prisoner must be served with a copy of the indictment, a list of the witnesses, and the assize or jury which is to try him, fifteen days before the trial.

With respect to the list of witnesses, we think that the rule of notice ought to be limited by an important exception. It seems to be unwise and inexpedient to preclude a prosecutor from availing himself of testimony which may not be discovered until after the notice has been given. This must, in the nature of things, often occur; and it is difficult to see why it should not be made use of. *Nemo tenetur ad impossibile*—and it is impossible to give notice of that which is not yet known; but it is holding out a premium to guilt to refuse to admit evidence which, by the mysterious providence of God, may not be disclosed until the eleventh hour. The rule might

well be that a list of all witnesses *known to the prosecutor* at the time should be furnished to the prisoner beforehand, under pain of having their evidence excluded — but it should always be open to him to avail himself of testimony which is not discovered until afterwards, and even while the trial is going on.

By the English law, in all criminal cases except high treason, witnesses may come forward at any moment before the case for the prosecution has closed. Some remarkable examples have occurred of the detection of guilt by this means, but it will be sufficient to mention one. We allude to the trial of Courvoisier for the murder of Lord William Russell, in 1840, who was convicted mainly by the evidence of a witness whose attention had been attracted to the report of the trial in a newspaper as it was going on, and who produced a parcel which had been left at her house by the prisoner, and which contained articles that were identified as the property of the deceased. In Scotland, her testimony could not have been received; and very possibly the prisoner would have escaped.<sup>1</sup>

In point of fact, in England, except in the case of witnesses whose evidence is not known to the prosecution before the trial, and who unexpectedly then appear, the prisoner almost always knows not only the names of the witnesses who will appear against him, but the evidence they will give. This is owing to the practice which has sprung up of late years, of producing and taking the depositions before the magistrate or coroner of *every* known witness who can possibly give

<sup>1</sup> There is only one case in which by the English law an accused party is entitled to a list of the witnesses beforehand. Under the statute 7 Anne, c. 21, a person indicted for high treason has a right to have a copy of the indictment and a list of the witnesses for the Crown, and of the jurymen who are to be returned on the panel, ten days before his arraignment. But in cases of *felony*, a prisoner, in England, has no right to see the indictment until after he has pleaded not guilty, and is put upon his trial; nor, in point of fact, does he see it beforehand. In some trials for *misdemeanour* it is different. For by stat. Geo. 4: c. 4: it is enacted

that in all cases of prosecutions for *misdemeanours*, instituted by the Attorney- or Solicitor-General, the Court shall, if required, order a copy of the information or indictment, free of expense, to be given to the party accused, after appearance.

With respect to witnesses, although no list of those for the prosecution is furnished to a prisoner, except in cases of high treason, yet, practically, the same result is obtained by virtue of the statute 11 & 12 Vict. c. 42, which enacts that a prisoner may have, before his trial, copies of the depositions on which he has been committed, on payment of a reasonable sum for the same.

evidence in the case, before the party accused of the offence is committed for trial. We cannot help thinking that this system has arisen from a misapprehension of what the English law requires. All that is necessary for the committing magistrate to ascertain is, whether there are fair and reasonable grounds for sending the case before a jury; and he steps beyond the boundary of his office when he does more than this, by going into all the minutiae of evidence, and sifting the case as closely as if he were called upon to decide the question of innocence or guilt. He has only to satisfy himself that there is sufficient *presumption* against the accused to justify the putting him upon his trial. The *proof* is afterwards a question for the jury.

It is said, indeed, that the course now always pursued is fairer towards the prisoner, as it prevents him from being taken by surprise at his trial, and gives him notice of the evidence which he will be called upon to meet. The reason is no doubt valid as far as it goes, and the Scotch system is based upon it. But there is an important difference in the preliminary proceedings in the two countries, which, in our opinion, renders the practice more objectionable in England. In Scotland, the examination of the witnesses for the prosecution beforehand, or their *precognition*, as it is called, takes place before the sheriff or Procurator Fiscal privately, the accused is not permitted to see it, and the public know nothing, except by rumour, of the particular facts to which the witnesses have deposed. In England, however, every word that is uttered by a witness in an important case before the magistrate or coroner is spoken in open Court, and is immediately reported in the newspapers. To such an extent is this now carried, that if we were to compare the evidence given before the committing magistrate in one or two notorious cases of late, with that afterwards given at the trials, we should find that the latter was nothing more than a repetition of the former, varied perhaps in some slight degree by the effect of a more searching and skilful cross-examination. One consequence of this is, that the public are called upon to 'sup full of horrors' twice instead of once, and the public mind is twice poisoned by the same details of crime. The subject is revived after it has been well nigh forgotten, and all the

hideousness of vice is a second time laid bare. Another consequence of this extreme publicity is, that an opportunity is thus offered to the accomplices or friends of the accused to fabricate false evidence to meet the allegations which they know will be made against him, or to tamper with the witnesses for the prosecution. And this is no doubt the reason why the giving to a prisoner a list of witnesses before the trial has been called 'a mischievous invention, calculated to defeat the ends of justice.' But we are bound to admit, that experience has not shown that there is in the disclosure of evidence before trial any danger which need excite serious apprehension, for it is remarkable how seldom in this country a prisoner ventures to adduce evidence in his defence—a strong proof that in the great majority of committals, we believe an overwhelming majority, the presumption is that the accused is guilty.<sup>1</sup>

In France notice must be given twenty-four hours at least before the trial, both by the *Procureur Général* to the prisoner and by the prisoner to the *Procureur Général*, of the names, occupations, and residences of the witnesses whom they respectively intend to call. But although this is the general rule, the French law takes care to provide for unexpected emergencies, and, by an express provision of the Code Criminel (art. 269), the president at the trial has the power to call for any evidence, although not notified beforehand, which he thinks likely to be of use in throwing light upon the case. This is what seems to be required in the Scotch system, to prevent the failure of justice, which must necessarily sometimes happen, when witnesses against the prisoner come forward too late, and their testimony cannot be heard because their names have not been signified to him fifteen days beforehand. For clearly there ought to be in every system of jurisprudence the power of relaxing a rule with respect to the notification of witnesses beforehand, which, if rigidly observed, must often paralyse the arm of justice, and allow great crimes to escape punishment. We happen to know that, in the case

<sup>1</sup> In the Report of the Select Committee on Public Prosecutors (May, 1856) it is stated, that the proportion of convictions to acquittals is much greater in Scotland than in England.

And yet in Scotland the list of witnesses for the prosecution is always given to the prisoner fifteen days before the trial.



of Madeleine Smith, an important witness was thus excluded, because the nature of his evidence was not known early enough for the legal notice to be given.

In England the indictment (we are not now speaking of criminal informations by the Attorney-General) must be found by a Grand Jury ; but in Scotland there is no such body. In England the charge goes before the grand jury engrossed on parchment, which in that stage is called a bill ; and it is not until they find a true bill that it is called an indictment. And in cases of murder or manslaughter, where there has been a coroner's inquest and verdict against the prisoner, notwithstanding the grand jury have not found the bill, it is competent to the prosecutor still to proceed upon the coroner's inquisition, and have the prisoner tried upon that. But this is by no means the usual course, and in most cases the practice is to take a verdict of acquittal on the coroner's inquisition, where the grand jury have not found a bill against the prisoner.

In the course of the trial of Madeleine Smith, her counsel, the Dean of Faculty, having applied for the warrant which had been issued for recovery of the documents which were put in evidence on the part of the prosecution, the Lord Advocate said that he had been anxious that every facility should be given for the defence, but the prisoner had chosen *to run her letters*, and the case had to be prepared in a very short time. The expression '*running her letters*' is probably wholly unknown to our English readers, and it may be useful to give some explanation of it.

When an accused person in Scotland is committed for trial, he has, under the statute of Anne, before referred to, the right to take out *letters of intimation* against the party on whose application he was imprisoned, and against the Lord Advocate. By these letters he requires that he shall be brought to trial within sixty days (the period prescribed by the Act), and that if that be not done, he shall be set at liberty. When these letters have been served upon the Lord Advocate, he is bound not only to execute an indictment against the prisoner within sixty days from the date of the service, but by a provision of the same statute, to bring the trial to a conclusion within forty days afterwards. If the indictment is not served

upon the prisoner before the expiration of the sixty days, or the trial is not finished at the expiration of the hundred, he must be instantly set at liberty. The penalties for keeping him in prison after the expiration of either of these periods are fixed by the statute at certain sums for each day of the detention, and a large sum is given by way of damages; neither of which, as the statute expressly declares, can be modified by any power or authority whatsoever. The power of 'running letters' therefore, under the Act of 1701, insures a prisoner being brought to trial, if he so wishes it, within a fixed period after his commitment.

In England there is no limit to the time within which a crime may be prosecuted after its perpetration, the maxim being that *nullum tempus occurrit regi*. In 1759 Horne was hanged for a murder committed in 1724, and in our own recollection a trial for murder took place twenty-four years after the murder was alleged to have been committed. But in Scotland it is held that the lapse of twenty years from the commission of an offence is a complete bar to criminal proceedings.<sup>1</sup> It would seem more reasonable to make the period of limitation run, not from the perpetration of the deed but from its discovery, for it is hardly possible to say that crime ought to go unpunished because for a certain length of time it has been successfully concealed. In the second case to which we have just alluded, and which was a very remarkable one, being the trial of the alleged murderer of a murderer, the trial took place in 1830, and the double murder had been committed in 1806, but the remains of the deceased were not discovered until the end of 1829.

Another material point of difference in the procedure of the two countries lies in the indictment. We are not here alluding to mere difference in its form, and to what may be called its technical incidents, but to the substance of the matters that may be charged in it. The indictment against Madeleine Smith contained three distinct capital charges, on all of which she was tried at one and the same time. The first

<sup>1</sup> The case which is generally cited as an authority for this is that of M'Gregor, in August, 1773; but there the prisoner's discharge was directed, 'in respect it does not appear that any sen-

tence of fugitation (or outlawry) passed against him.' It seems, however, to be settled law in Scotland that a lapse of twenty years is a bar to a prosecution.

related to an administration of poison with intent to murder the deceased on February 19 or 20 ; the second to a similar attempt on the 22nd or 23rd of the same month ; the third to the actual murder of the deceased on March 22 or 23 following. By the English law the prisoner could not have been tried on more than one of these charges in the same indictment. They referred to separate offences alleged indeed to have been committed against the same person, but differing in time and place and circumstance ; and they could not, according to the English practice, have been included together in the same indictment. But practically there is less difference between the two systems in this respect than may at first sight appear. By the English law it would have been perfectly competent to give *evidence* of the alleged prior attempts on the life of the deceased, on an indictment charging the prisoner with his murder on March 22, in order to show the probability that at that date the attempt was successfully renewed. Where the conduct of an accused party is ambiguous, his previous acts may be resorted to in order to explain it. Thus, where a man is indicted for the murder of another by shooting him with a gun, and the defence set up is that the gun went off by accident, it may be proved that on a former occasion, or on former occasions, the prisoner attempted to kill the deceased. But this is allowed merely to throw light on what is dark or equivocal, and is only relevant to prove malice on the part of the accused, and thus to supply a link in the chain of proof which might otherwise be wanting to show the intent. In Scotland, however, a prisoner may be tried at one and the same time on several charges if they are connected together by one continuous crime, as a charge of murder with robbery, or theft with forgery. Indeed, according to the theory of Scotch law, as laid down by the best authorities, a prosecutor is allowed to include in the same indictment a number of offences which have no connection with each other ; as for instance treason, cursing of parents, and parricide ; and the objection of *cumulatio criminum* is hardly tenable. In one case, that of Dickenson and others, in 1726, the prisoners were charged with a murder committed in 1724, a robbery in 1726, and also with being 'sorners, Egyptians, and masterful beggars.' In another, murder, houghing of oxen

and theft; and in another, fornication and theft have been included in the same indictment.<sup>1</sup> The same is the case in France, and any number of charges of the most dissimilar kind may be included in the same *acte d'accusation*. Thus, in the memorable case of Madame Laffarge, she was tried not only for the murder of her husband, but also on the same indictment for the robbery of some jewels. It is impossible to defend such a mode of procedure. It is a monstrous perversion of justice to mix up incongruous charges, and call upon a prisoner to defend himself against them all at the same moment. For it is obvious how unfair an effect the minor accusation may have upon the major, by prejudicing the minds of the jury, and inducing them to come to the illogical conclusion that because a woman may have stolen diamonds she is therefore likely to have committed murder!

Another difference between the Scotch and English Courts in the conduct of a trial, is the order in which the speeches and evidence are interchanged.

In England the evidence is always preceded by an opening speech of counsel, who, by custom, except in cases where the Crown itself is not only nominally but actually the prosecutor (as where one of the law officers of the Crown officially conducts the prosecution), is not entitled to a reply unless the counsel for the prisoner calls witnesses or puts in evidence for the defence. In Scotland the evidence for the prosecution is given first, and this is followed by the evidence for the defence. The counsel for the Crown then for the first time makes a speech, summing up the evidence on both sides, and the prisoner's counsel replies, so as to have always the last word with the jury.<sup>2</sup> This is no doubt a great advantage to the accused, and perhaps is right, but it seems a mistake not to open the case with a statement. The jury are left to gather the facts solely from the indictment, and this affords really no information as to the history of the case, which may be of the most complex character. They must therefore be often lost in the labyrinth of details, without the clue which they

<sup>1</sup> The Court, however, has the power to divide the indictment or libel, and try at one time only such charges as it thinks will not embarrass the

prisoner in his defence.

<sup>2</sup> The counsel on either side may open by a speech if they choose, although in practice it is rarely done.

would have held if they had been instructed by the opening speech of counsel.

Every reader of Demosthenes and the other Greek orators knows that it was the custom of Athens to mingle the speech of the prosecutor and evidence together ; and the speaker constantly paused in his oration to direct the officer of the court to read such and such a document in evidence, or to call for the testimony of witnesses.

It can hardly be objected that by the English system there is more chance of a jury being misled than by the Scotch ; for there is in reality as much scope for mis-statement or exaggeration in summing up evidence as in stating it beforehand. And in nothing perhaps is a prosecuting counsel in England more cautious than in not making any statements to the jury the truth of which he thinks may possibly not be established. Indeed, the humane spirit in which English trials are conducted, is remarkably shown in the fairness and moderation with which the counsel for the prosecution opens the case against the prisoner. The tone of his speech is almost judicial ; avoiding all exaggeration, cautioning the jury against being influenced by anything except the evidence before them, and impressing upon them the duty of giving the prisoner the benefit of any reasonable doubt. The course adopted in France presents an amazing contrast to this ; and we can only wonder, when we read the speech of a *Procureur du Roi*, or *de la République*, or *Impérial* against the accused, full of impassioned oratory, and inflaming the charge against him with all the artifice of rhetoric.

But the French lawyers may plead illustrious precedents for this. They may appeal to the great orators of antiquity, who indulged in bitter invective when they conducted, as we should call it, a prosecution ; and of this the speech of Cicero against Piso is a conspicuous example. Nor could anything exceed the vehemence of attack with which Burke and Sheridan, as managers of the impeachment against Warren Hastings, assailed him in Westminster Hall. But they were not lawyers, and the whole proceeding had more the character of a political and party struggle than a judicial inquiry.

But a much more important difference exists between the systems of Scotland and England in the application of the

law of evidence. On the trial of Madeleine Smith, declarations made by the deceased at two different periods in February, when he was suffering from illness from which he recovered, to the effect that his illness was consequent on his taking something which the prisoner had given him to drink, were admitted in evidence against her without any opposition on the part of her counsel.<sup>1</sup> These statements, if understood in the sense intended by the prosecutor, were of tremendous significance, and must have weighed heavily against the prisoner. If they had been excluded, it is hardly too much to say that the verdict must have been Not Guilty, for without them the case against her would have resolved itself into this:—She was proved to have purchased arsenic on three occasions, and on the hypothesis of the exclusion of L'Angelier's declarations in February, there would have been no evidence whatever to connect him in any way with the use made of the poison on either of the first two of these. Two days after the third purchase, she made an appointment to meet the deceased, which, owing to an accident, he failed to keep. The appointment was renewed for another night (Saturday, the 21st of March), and this again, owing to his absence from Glasgow, he failed to keep. On the following night he is proved to have gone from home as if to obtain an interview with the prisoner, but there was an utter absence of proof that they did meet on that occasion; and at two A.M. of that night he was found at the door of his lodgings suffering from the effects of arsenic, of which he died in the course of the day, without hinting in the remotest manner that he had seen the prisoner or received anything whatever from her. In this state of facts, the links which could connect the prisoner with his death would have been too glaringly wanting to justify even a verdict of Not Proven. The case, however, assumed a different aspect when evidence was given, the object of which was to show that on two previous occasions she had made attempts by poison on her lover's life. If the jury were satisfied of *that*, their minds would inevitably be pre-

<sup>1</sup> It must, however, be borne in mind that this evidence was admitted on an indictment which charged the *attempt* as well as the actual murder. But the attempt was at a time long be-

fore the murder, and could not have been included in an indictment charging the murder according to the English law.

disposed to think that she would not scruple to make a third attempt, provided only she had the opportunity, and the only questions then would be—was the opportunity given? and were the attending circumstances such as to lead to a reasonable belief that she availed herself of it for that purpose?

By the English law, the above evidence was wholly inadmissible, and no lawyer would have attempted to tender it in a court of justice. True it is, that the declaration of a deceased person having reference to *the cause of his death*, and uttered under *a consciousness or apprehension of approaching dissolution*, is received in evidence. But in the case in question, both these requisites of admissibility were wanting. The statements had reference to two alleged attempts upon his life from which he had recovered. They were in no sense the cause of his death, and they were separated by an interval of at least a month from that event. But what is of still more importance, they were made at times when the deceased was under no apprehension of death, and there was nothing to distinguish them from any other declaration he might have made affecting the prisoner at any period of his life.

The admission of dying declarations at all as evidence, is a relaxation of the rule that no hearsay evidence can be received. For such a statement is made in the absence of the accused behind his back, and there is no opportunity at the trial of cross-examining the party who has made it, inasmuch as by the hypothesis he is then dead. But the Scotch law goes further than the English, and where a person who has been injured by a crime is dead, it allows evidence to be given by third parties of what he has said with regard to the subject-matter of the trial, although the statement may have been made at a time when he was in perfect health, and in no fear of death. We confess we are unable to see how this can be justified on any principle which would not equally admit evidence of statements made by anybody who happens to die before the trial, although not the party injured. And yet such statements are by the law of Scotland equally, as by the law of England, excluded.

There is perhaps no part of the Criminal Law of Scotland which has attracted more attention in England than the verdict of Not Proven, corresponding to the *Non Liquet* of

the Roman law. And there are not wanting those who advocate the introduction of it into the English Courts ; nor are they without plausible arguments in its favour. We will therefore say a few words on the subject, and endeavour to show that such a verdict is on several grounds objectionable. But first as to its origin.

The old form of Scotch verdict for 'guilty' was *fyht, culpable, or convict* ; and for 'not guilty,' was *clean, or free, and sometimes innocent*. And this verdict continued to be given until the latter part of the seventeenth century. It was, however, found that the jury sometimes took the law into their own hands, and acquitted the prisoner, not because the evidence was insufficient, but because they chose to consider that the crime charged in the indictment did not amount to a legal offence. It became, therefore, the practice in drawing the indictment to set out all the facts with circumstantial minuteness, and the Court then, in the first instance, pronounced an interlocutor as to its relevancy, that is, its sufficiency in point of law, if proved in fact, to justify the conclusion that a legal offence had been committed. They afterwards, if the relevancy was sustained, referred it to the 'knowledge of the judge,' to determine the facts, and find them 'proven,' or 'not proven in the terms of the lords their interlocutor.' And they soon went a step further ; for not content with allowing the jury to find as the *result* of the whole evidence a verdict of 'proven,' or 'not proven,'—when the Court suspected that the jury might scruple to find in general terms the crime charged to be *proven*, it required them to return a *special verdict*, finding proved a long chain of circumstances, and leaving it to the judges to determine whether, by inference, these did or did not establish the crime charged in the indictment. It is needless to say, that this was to usurp in a great measure the prerogative of the jury. For in criminal cases it is its especial province to draw inferences, not indeed of law, but of fact, from other facts ; and very often the whole question of guilty or not guilty depends upon the inference to be drawn from particular circumstances. For instance, the inference of intention, which makes all the difference between murder or manslaughter, or accidental death. To show to what a length this was carried, we may mention



the case of Marion Lawson, who was tried for child murder in 1662. The jury found her to be *cleared and not guilty in respect of no probation*; but in respect of the presumptions, remitted the prisoner to the consideration of the Court, and the Court sentenced her to be whipped through the High Street of Edinburgh, and banished, for an offence of which, in the opinion and by the verdict of the jury, she was not proved to be guilty! Thus the verdict of 'proven' and 'not proven,' took the place of the old forms, and they continued until the trial of Samuel Hales, in 1726, when the jury, for the first time we believe since the commencement of the new practice, returned a verdict of 'not guilty.' And two years afterwards, the case of Carnegie of Finhaven occurred, who was tried for the murder of the Earl of Strathmore, when, in opposition to the opinion of the Court, the jury thought that the panel was not guilty of murder, and they, 'therefore,' says Baron Hume, 'asserted their ancient and undoubted privilege of finding a general verdict of *'not guilty'*, which the Court could neither decline to receive, nor anywise question as to the grounds and reasons on which it proceeded.' The legal effect of a verdict of 'not proven,' is the same as that of 'not guilty;' for the accused cannot be tried a second time.

The popular objection to the verdict of Not Guilty, as distinguished from Not Proven, is that it seems sometimes to do violence to the consciences of jurymen, who, as is alleged, must be not unfrequently morally satisfied of the prisoner's guilt, or, at all events, not satisfied of his innocence; and yet, owing to a defect of legal evidence, or to some technical quibble, are compelled to declare that they do not believe he has committed the offence for which he is tried. But this is a mistake; for by the verdict of Not Guilty, the jury do not necessarily assert that they believe the prisoner to be innocent of the crime imputed to him. It does not in itself imply more than that the *legal evidence* is not sufficient to produce that degree of certainty which would justify, or render safe, a conviction. And a proof of this is furnished by the fact that the verdict is returned in cases where the guilt of the accused is established, but owing to some technical difficulty or mistake, the jury are directed to acquit. They do not thereby say that he has not committed the crime, but merely that it is not

legally proved that he has. There is, therefore, nothing in the verdict which need alarm the most scrupulous conscience ; for it may be, and indeed ought to be, given whenever a juror is not fully and beyond all reasonable doubt satisfied by legal evidence of the guilt of the accused. And we must remember that the law presumes every man to be innocent who is not proved to be guilty ; so that the jury do no more than their strict duty when they declare him to be not guilty whom the evidence falls short of convicting, however dark and unfavourable may be their suspicions respecting him.

Such, then, being the case with respect to the verdict of Not Guilty, it is not difficult to show that there are graver objections against that of Not Proven. It is in fact what Sir Walter Scott called it, 'a bastard verdict.' It enables jurors to effect a sort of compromise between their duty to give a true verdict 'according to the evidence,' and their inclination to escape the necessity of coming to a definite conclusion upon doubtful facts. There must be always a strong temptation to adopt it where there is much suspicion, but a deficiency of legal proof. But is this fair towards the accused ? Surely if the evidence does not establish the charge against him, he is entitled to an absolute acquittal. But although the verdict of Not Proven is so far tantamount to an acquittal, that the party cannot be tried a second time, it falls very far short of it with regard to the effect upon his reputation and character. He goes away from the bar of the Court with an indelible stigma upon his fame, when there stands recorded against him the opinion of a jury, that the evidence respecting his guilt was so strong that they did not dare to pronounce a verdict of acquittal. But where the evidence falls short of *proof* of guilt, the prisoner is entitled to a verdict of Not Guilty ; for the law has failed to prove him guilty, and by the law alone is he to be acquitted or condemned.

We had intended to discuss at some length the question of the unanimity of the jury, the requirement of which Mr. Hallam calls a 'preposterous relic of barbarism ;' but we have only space for a few concluding remarks.

In Scotland the jury or assize in criminal trials consist of fifteen, and decide by a majority. In England the verdict must be unanimous. In France, between 1791, when the jury

system was first introduced there, and 1848, a period of fifty-seven years, the law respecting verdicts by a majority in criminal cases was changed no less than twelve times! At first (Décret 16 et 29 Sept. 1791, C. Brum. an 4. art. 403) ten votes were required for a verdict of Guilty. Under the Revolutionary Tribunal the number of the jury was reduced to eleven, then to nine, and afterwards to seven, and it was necessary that there should be a majority for a verdict, either of Guilty or Not Guilty. The Directory required the verdict to be unanimous in either case. Other changes took place at different periods; and under the Republic that followed the revolution of February, 1848, the majority was required to be nine. This, however, was found to lead to an alarming number of acquittals, and finally the law of the 9th of June, 1853, established the rule of a simple majority for a verdict of Guilty, which continues up to the present time.

We must here content ourselves with expressing our opinion, that the rule of unanimity ought to be relaxed in civil and retained in criminal cases. As regards the former, a change was strongly recommended by the Commissioners appointed in 1830 to report upon the Courts of Common Law. They said, 'It is essential to the validity of a verdict that the jury should be unanimous; and regularly they are not allowed to be discharged (unless by consent of the parties) until such unanimous verdict has been returned. It is difficult to defend the justice or wisdom of the latter principle. It seems absurd that the rights of a party on questions of a doubtful and complicated nature should depend upon his being able to satisfy twelve persons that one particular state of facts is the true one. . . . *And the interests of justice seem manifestly to require a change of law upon this subject.*'

This was the declared opinion of the Commissioners, published many years ago, and yet no change has been made in the rule that requires twelve men all to agree upon a disputed fact, or leaves the fact for ever judicially undecided. Surely the time has come when such an absurdity should no longer be permitted to continue, and when the law of the majority, which prevails in the House of Commons and the House of Lords, and in every other assemblage of men who meet to deliberate and determine, should be allowed to prevail in the jury-

box in civil cases. But we do not wish to see the English rule changed in criminal trials, for here different considerations apply. We have not space to discuss the question here, but we may shortly state that what chiefly weighs with us in adopting this conclusion, is, that the fact of a dissentient minority in a verdict of Guilty must often tend to paralyse the arm of justice, and produce a sort of compromise in the infliction of punishment, which cannot be justified on any ground of principle. We doubt whether in England it would be possible to hang a prisoner for murder when the jury found him Guilty only by a majority. And yet, on what principle could a lesser punishment be inflicted? If the Executive is satisfied that the verdict is right, the law (except so far as *mercy* may intervene) ought to take its course. If it doubts because the jury differed in opinion, and therefore remits the penalty of death, surely it has no right to consign a man to hopeless slavery for life, when it did not dare to hang him because it doubted whether he was guilty at all. But however opinions may differ as to the expediency of the rule which requires unanimity in the jury, either in civil or criminal trials, there surely can be none as to the absurdity of that which prohibits them from receiving any kind of refreshment while they are considering their verdict. They must agree or starve, not exactly to death, but up to a considerable amount of endurance of physical exhaustion. This undoubtedly *is* a 'preposterous relic of barbarism;' and the only wonder is that it should have remained to the present day, and be tolerated in times when mere antiquity is allowed to be a very insufficient plea for the continuance of an abuse.

## THE KINGDOM OF ITALY.<sup>1</sup>

‘Quarterly Review,’ January, 1861.

LITTLE did the French Emperor foresee or intend the results that have followed from his armed interference in Italy. Little did he know the direction the waters would take when he determined to unsluice the stagnant lake, and fancied that he could channel out the course in which the waters were to flow. Whatever he may have meant by his watchword of ‘Italy free from the Alps to the Adriatic;’ whether it did or did not include, along with the expulsion of the Austrians from Lombardy and Venice, a throne in Italy for his cousin Prince Napoleon, as well as the realization of the ‘idea’ for which, while solemnly disavowing all thoughts of territorial aggrandisement, France made war,—namely, that Savoy and Nice should be torn from Italy and become incorporated with France,—it is plain that the policy of Napoleon III. has been to a great extent disconcerted and baffled by the course of events. There is, however, another monarch who has known well how to turn them to his own advantage, who has reaped where others have sown, and has himself known right well how to sow unobserved, and who—aided by ministers whose far-seeing sagacity we acknowledge, however much we must condemn the means they have employed—has from first to last shown that those events have not taken him by surprise, and that he has led rather than followed in their path.

From the time when, without any imaginable cause of war,

<sup>1</sup> 1. *Correspondence relating to the Affairs of Italy.* Presented to both Houses of Parliament by Command of Her Majesty. 1860.

2. *Correspondence relating to the Affairs of Italy, Savoy, and Switzerland.* Presented to both Houses of Parliament by Command of Her Majesty. 1860.

3. *The Congress and the Cabinet.* By the Marquis of Normanby, K.G. London, 1859.

4. *Le Pape et le Congrès.* Paris, 1859.

5. *A Century of Despotism in Naples and Sicily.* By Susan Horner. Edinburgh, 1860.

King Victor Emmanuel engaged the little kingdom of Sardinia by the side of the Western Powers in the struggle against Russia in the Crimea, down to the present moment, when he has added to his dominions the territory, or parts of the territory, of six independent States, he has steadily worked out one idea, and that has been, the Unity of Italy with the House of Savoy upon the throne. And this, now that success has so far crowned his efforts, he openly avows ; for in the manifesto which he addressed from Ancona on the 9th of October last to the people of Southern Italy, he declared, ' I have thus been able to maintain in that part of Italy which is united under my sceptre the idea of a national hegemony, out of which was to arise the harmonious concord of divided provinces united in one nation. Italy was put in possession of my view when it beheld me sending my troops to the Crimea by the side of the soldiers of the two great Western Powers. I desired to obtain for Italy the right of taking part in all transactions of European interest.'

There are two views of the astounding drama that has been acted in Italy ; each of which has its advocates, but in neither of which can we wholly acquiesce. The one sees in the dazzling series of events nothing but the triumph of liberty over oppression ; and, on the principle that the end justifies the means, exults with unalloyed delight in the idea of a national regeneration. The other sees in them nothing but the reckless ambition of an unscrupulous sovereign, the triumph of insurrection, and the daring contempt of international law. In this country, as might be expected, the first or the Italian view is, beyond all doubt or question, the popular one. It has been adopted with remarkable unanimity by the press ; and while all rejoice in the result, few have cared to find fault with the acts that have been successful. Nor need we be surprised at this : it is natural that Englishmen should sympathize with a struggle for freedom, and rejoice in the prospect of a strong constitutional government in Italy in the place of effete despotism like that of Naples, or ecclesiastical misrule like that of Rome. It is natural that the Protestant feeling of the nation should view without displeasure the humiliation of the Pope, and the diminution, if not the destruction, of his temporal power. And there was something

in the character of Garibaldi, and in the nature of his enterprise, which seemed to realize the wonders of romance, and to justify that hero-worship which always has been and always will be one of the darling passions of the multitude. The feeling was that which warmed the head and fired the imagination of Macchiavelli, when he almost prophesied the advent of such a deliverer, and exclaimed, 'I cannot express with what love he would be received in all the provinces which have suffered from these foreign inundations; with what a thirst for vengeance, with what stedfast fidelity, with what affection, with what tears! What gates would close themselves against him? What people would refuse him their obedience? What envy would oppose itself to him? What Italian would deny him homage? *A ognuno puzza questo barbaro dominio.*'<sup>1</sup>

'Italy for the Italians' is a captivating cry. It seems to express the sentiment of liberty with the force of a truism; and men forget that its true meaning is the expulsion of the foreigner, that 'barbaro dominio' of which Macchiavelli speaks; and can be no argument to justify insurrection against *Italian* governments, or the overthrow of *Italian* dynasties. We do not say that they cannot be justified; but this is a very different thing from admitting the right of one independent State to interfere and foment insurrection in the dominions of another, of which it intends to reap the fruits and carry off the lion's share of the spoil. The cry of 'Germany for the Germans' would hardly be allowed as a pretext for the invasion of Saxony or Bavaria by Prussia, although we find it employed as an apology for the attempts that are made to deprive Denmark of her provinces, the Duchies of Schleswig and Holstein, because they are said by community of origin and sameness of language to belong to the Great Fatherland. Men forget also, that since the fall of the Roman Empire (if even before it) there never has been a time when Italy could be called a nation, any more than a stack of timber can be called a ship. During the middle ages the little Republics into which it was split up fought like tiger-cats against each other; and for the last three hundred years, with the exception of the period of the French Revolution, when all landmarks were effaced, the circumscription of territories, and the

<sup>1</sup> Il Principe, cap. 25.

distinction of governments, have been as complete in Italy as in any other part of Europe.

By the Treaty of Villafranca, which was definitely signed at Zurich on the 11th of November, 1859, and to which Sardinia was forced to become a party, Lombardy was under one instrument ceded to France, and, under another, by France to Sardinia. Thus a blow was struck at the European settlement of 1815, which France has so long desired to subvert. France, too, in receiving directly from Austria the cession of Lombardy, conceived herself to have acquired, as against Austria, the right to interfere at all times to protect the Sardinian possession of that territory. It was also agreed separately between France and Austria that they would make every effort to encourage a Confederation amongst the Italian States, to be placed under the honorary presidency of the Pope. And the rights of the Grand Duke of Tuscany, the Duke of Modena, and the Duke of Parma were reserved, on the alleged ground that the territorial delimitation of the independent States of Italy which took no part in the war could be changed only by the Powers who presided at their formation and recognized their existence. It was then proposed by France and Austria that a Congress should assemble to take into consideration the pacification of Central Italy; but it never met. It was found impracticable to get the Great Powers to agree on a common basis of action. Austria insisted on the restoration of the Grand Duke of Tuscany and the Duke of Modena. France could not oppose herself to this; and we have no reason to doubt that the French Emperor, in all sincerity and good faith, made every effort to give effect to the stipulation in favour of the dethroned princes. But England steadily and firmly adhered to the principle that the inhabitants of Tuscany and the *Æmilia*<sup>1</sup> were to be left entirely to themselves, to choose their own form of Government, and settle, as they thought fit, the question whether they would annex themselves to Piedmont, or form an independent State. So early as the month of

<sup>1</sup> The *Æmilia* or *Emilia* is the name given to the triangular tract of country, between the Po and the Apennines, which embraces the Duchies of Parma, Modena, and the Romagna.

It derives its name from the *Via Æmilia*, which ran from Piacenza beyond the northern extremity of the Apennine range as far as Rimini, where it joined the *Via Flaminia*.



August 1859, the Tuscan assembly at Florence had voted unanimously, or we believe with only three exceptions, in favour of annexation to Piedmont ; and in September following, the revolted province of the Romagna, having convoked a general assembly of representatives at Bologna, declared that 'the people of Romagna refuse to live any longer under the temporal sway of the Pontiff.' With regard to the Romagna and the Legations, which had made common cause in throwing off the allegiance of the Pope, and may be considered as one province, the French Emperor was under no engagement to Austria, and before the end of the year he had satisfied himself that it was vain to dream of coercing them : he therefore strove to induce the Holy See to make a virtue of necessity, and on the 31st of December wrote that remarkable letter to the Pope, in which he said,—

After a serious examination of the difficulties and the dangers which the different combinations presented—I say it with sincere regret, and however painful the solution may be—what seems to me most in accordance with the true interests of the Holy See would be to make a sacrifice of the revolted provinces. If the Holy Father, for the repose of Europe, were to renounce those provinces which for the last fifty years have caused so much embarrassment to his government, and were in exchange to demand from the powers that they should guarantee him possession of the remainder, I do not doubt of the immediate restoration of order. Then the Holy Father would assure to grateful Italy peace during long years, and to the Holy See the peaceful possession of the States of the Church.

In the meantime Central Italy remained without a Government, except such as it had extemporised for itself ; and it is only fair and just to say that the conduct of the people during the trying period of hope deferred was admirable. With one melancholy exception, the murder of Colonel Aviti at Parma, accounted for by local and peculiar causes, yet affording a terrible proof of what *might have been* on a more frightful scale—there was (thanks to the wise guidance of such men as Ricasoli and Farini) neither disturbance nor disorder ; and the people seemed determined to prove their fitness for self-government by the calmness of their attitude, the prudence of their counsels, and the moderation of their demands. Not a whisper was heard of a Republic, or, if heard, it was instantly suppressed by the good sense of an overwhelming majority ; and we think that Lord John Russell did not overstate the

case when, writing to our Minister at Vienna, he declared :— ‘At the present time the people of Italy, in harmony with public opinion throughout Europe, seek for order as well as liberty beneath the dome of monarchy, supported by national consent and equal laws.’ And yet their patience was sorely tried. When the vote for annexation to Piedmont, in August, was communicated to King Victor Emmanuel, and he was offered the homage of Tuscany and Æmilia, the fear of France compelled him to give an evasive reply ; and when, as a provisional expedient, they wished to confer the Regency upon the King’s cousin, Prince de Carignan, he did not dare to accept it ; but the Chevalier Buoncompagni was nominated in his stead. Sardinia, held in check by France and Austria, hesitated to take possession of a territory the throne of which was vacant, and which held out its arms to receive her ; for, as Lord John Russell stated in March last year, in the House of Commons, ‘The Austrian Government declared that, if a Sardinian soldier should go into Central Italy, they would at once march their troops to oppose them. On the other hand, the Emperor of France declared to the Austrian Ambassador at Paris, that the moment a single Austrian soldier crossed the Po the French army would be marched to oppose them.’ Lord John Russell also said, in the same speech, that ‘it was agreed by France, in communication with Austria, that the Congress should be indefinitely postponed ;’ and it was generally believed that the chief cause of this postponement was the appearance of the pamphlet ‘*Le Pape et le Congrès*,’ bearing the name of M. de la Guernonnière, but attributed to the French Emperor, which advocated the restriction of the temporal government of the Pope to Rome alone.<sup>1</sup>

However this may be, England now came forward with four proposals for settling the difficulty, which were commu-

<sup>1</sup> ‘A pamphlet published in Paris, under the title of *Le Pape et le Congrès*, which has created too much stir in the political world not to have attracted your Lordship’s attention, is the indirect cause of the postponement. The Austrian Government, it appears, requires an engagement, on the part of the French Government, neither to bring before the Congress themselves the measures of

which the pamphlet is the advocate, nor to support them if brought forward by others. The French Government hesitate at entering into any such engagement, and Austria in consequence declines appearing at the Congress.’—Earl Cowley to Lord John Russell, Jan. 1, 1860. Correspondence respecting the Affairs of Italy, 1860.

nicated by Lord John Russell to Earl Cowley, our Ambassador at Paris, in a despatch dated January 15:—

1. That France and Austria should agree not to interfere for the future by force in the internal affairs of Italy, unless called upon to do so by the unanimous assent of the five Great Powers of Europe.
2. That in pursuance of this agreement the Emperor of the French should concert with his Holiness the Pope as to the evacuation of Rome by the troops of France.
3. The internal government of Venetia not to be in any way matter of negotiation between the European Powers.
4. Great Britain and France to invite the King of Sardinia to agree not to send troops into Central Italy until its several States and Provinces shall, by a new vote of their Assemblies, after a new election, have solemnly declared their wishes as to their future destiny.

The French Government at once professed its willingness to accept the first three of these propositions, observing, with respect to the second, that the 'evacuation of Rome must remain subordinate to the certainty that no serious danger should result therefrom to the safety of the Holy See.' As regarded the fourth, M. Thouvenel, the French Minister for Foreign Affairs, stated that the Emperor 'personally considered the principle laid down by Her Majesty's Government, that the future destinies of the States of Central Italy should be ascertained through the Assemblies, to be equitable and practical. But before taking any steps in conjunction with Her Majesty's Government in the sense desired by them, His Majesty considered himself to be bound in honour to address himself to the Cabinet of Vienna, to expose what had taken place since the Peace of Villafranca, and to state the reasons which led him to the conclusion that no other solution was possible than that suggested by Her Majesty's Government.'

The Austrian Government, however, would not accede to the English views, and France then proposed the following plan:—

1. Complete annexation of the Duchies of Parma and Modena to Sardinia.
2. Temporal administration of the Legations of the Romagna, of Ferrara, and of Bologna, under the form of a *vicariat*, exercised by his Sardinian Majesty, in the name of the Holy See.
3. Re-establishment of the Grand Duchy of Tuscany in its political and territorial independence.

But this did not meet the approval of either Austria or Sardinia. And we do not believe that any ministry could

have stood in Sardinia which continued to oppose itself to the demand for annexation, supported by the unanimous vote of the revolted provinces. The result was that the French Government, in face of the 'inexorable logic of facts,' no longer insisted on maintaining the separate existence of Tuscany as an independent state, but sullenly withdrew, and left Central Italy to determine its own fate.

The question of annexation to Piedmont, or the erection of a separate kingdom, was put to the vote in Tuscany and the *Æmilia*, and determined by an immense majority in favour of annexation. Baron Ricasoli, who had succeeded Chevalier Buoncompagni as Provisional Governor of Tuscany, presented the result of this appeal to universal suffrage to the King on March 22 ; and soon afterwards a bill was brought into the Sardinian Chambers to authorise the annexation, and passed into a law.

In the meantime Europe was startled by the announcement that France required a 'rectification' of her frontiers on the side of the Alps. In other words, the French Emperor insisted upon the cession of territory which he had bargained for as the price of assisting Sardinia in her contest with Austria, and obtaining for her a large accession of dominion. The transaction was discreditable to all the parties concerned, and it involved both Governments in duplicity and dissimulation, if not positive falsehood. We can understand the reason why the bargain was concealed, for it was of vital consequence to Napoleon III. at the outbreak of the war that the Great Powers of Europe should have no hint of a scheme which revived awkward recollections of the policy of the First Empire, and, more than anything else, was likely to rally them on the side of Austria. But we do not understand how statesmen of character could bring themselves to deny peremptorily the existence of a scheme which they knew had at one time been arranged, in the hope that a change of circumstances might prevent it from being carried into effect, and so they might escape the odium of ever being known to have entertained it.

We believe the following to be a true account of the facts of the case, although our limits will not allow us to do more than give the most rapid summary of them.

When the question of the intervention of France in Italy was originally discussed between the French and Sardinian Governments ; or rather, if we are rightly informed, between the Emperor and Count Cavour at a confidential interview, it was agreed or 'understood,' that if the result of the war should be to free Lombardy and Venetia from the grasp of Austria, and annex them to Piedmont, France was to receive Savoy and Nice, or at all events Savoy, as the consideration for her services. At that time there was no idea on the part of the contracting parties that Tuscany and the *Æmilia* would demand to be incorporated with Sardinia. It was, as the lawyers say, a *casus omissus*, and unprovided for in the agreement. But the event falsified the expectation. Austria retained Venetia, and Central Italy resolved to join Piedmont. The French Emperor now claimed the fulfilment of the contract, but Sardinia demurred. She took her stand on the letter of the bond : Savoy and Nice were to be the equivalent of Lombardy and Venetia ; but Venetia still remained in the hands of Austria, and her chains were riveted by the Peace of Villafranca. The terms of the bargain, therefore, not having been kept by France, were not binding upon Sardinia. The French Emperor seems to have admitted the force of this reasoning, or at all events he yielded to it, and did not insist upon his demand ; and thus it was that Count Walewski, on July 8, 1859, declared to Earl Cowley, the British Ambassador at Paris, that, 'if at any time the idea of annexing Savoy to France had been entertained, it had been entirely abandoned.' But when it became apparent that the whole of the *Æmilian* provinces, and in all probability Tuscany also, would become united to Piedmont, he revived the dormant claim, on the ground that the meaning of the agreement was, that, if Sardinia obtained by the aid of French arms a substantial increase of territory on one side of the Alps, she was to make a cession to France on the other.<sup>1</sup> And to this he conceived himself entitled, even if Tuscany were excluded from the annexation.<sup>2</sup>

The Sardinian Government, however, conscious of the

<sup>1</sup> See Lord Cowley's speech in the House of Lords, April 23, 1860. Talleyrand, Feb. 24, 1860. Correspondence on Affairs of Italy.

<sup>2</sup> M. Thouvenel to Baron de

extreme unpopularity it would incur by giving up provinces one of which was the most ancient inheritance—nay, the very cradle of the House of Savoy—and too glad to find a pretext for escaping from the fulfilment of the odious bargain, resisted the claim. And now the machinery was put in motion whereby the compulsion of authority is made to assume the appearance of a voluntary act, and a fictitious majority obtained by dexterous intrigue is called the national will, expressed under the imposing name of universal suffrage.

We will not waste words upon the impudence of the attempt to make it appear that the agitation of the question of annexation to France in Savoy and Nice was a spontaneous movement ; but soon afterwards the question became the topic of universal discussion, and Europe, although indignant at being duped, laughed at the idea of danger to France because Piedmont was likely to double her territory and population. At this juncture the inhabitants of Chambéry adopted at a public meeting an address to King Victor Emmanuel, declaring their wish to remain under the dominion of the House of Savoy, and the Governor of that province stated that, having asked instructions from Turin, he had received the following reply :—

The policy of the Government of his Majesty is known ; it has not varied. *The Government never entertained the idea of ceding Savoy to France.* Questioned already previously by the party who dared to moot the separation, the Government did not even think it necessary to reply.

We never heard that the statement of the Governor was disavowed by Count Cavour, and yet it seems distinctly at variance with the facts. On the 4th of February M. Thouvenel informed Lord Cowley, in Paris, that ‘it was true that, among the possible *arrangements* discussed between the two Governments when they found themselves likely to be engaged side by side in war with Austria, was the cession to France, under certain contingencies, of Savoy and the county of Nice.’<sup>1</sup> And in a speech made by Count de Persigny in the Council General of the Department of the Loire, at the end of August, when he was the Ambassador of France at our Court, he said :—‘ *Even before the beginning of the war we*

<sup>1</sup> Earl Cowley to Lord J. Russell, Feb. 5, 1860. Correspondence on pro- posed annexation of Savoy and Nice, 1860.

had warned Sardinia that if events should bring about a great kingdom in Italy, we should demand that the slopes of the Alps should not remain in its hands.' Does any one believe that Count Cavour refused to listen to the 'possible arrangement,' or that he gave any hint to France that his Government would resist the 'demand'? It is indeed pitiable to see the way in which the Sardinian Government affected to make Europe believe that they yielded at last to the popular will, and that in ceding Nice and Savoy they merely paid homage to the new principle of universal suffrage invoked to determine the allegiance of subjects. They might have said 'We bow to a supreme necessity,' and the reason would at least have been understood. But what are we to think of the sincerity of the minister who could write as Count Cavour wrote to M. Thouvenel on the 2nd of March?—

We feel too deeply what Italy owes to the Emperor not to pay the most serious attention to a demand based on the principle of respect for the wishes of the inhabitants. His Majesty's Government would never consent, with even the greatest prospective advantages, to cede or exchange any one of the parts of the territory which has formed for so many ages the glorious inheritance of the House of Savoy. But the King's Government cannot refuse taking into consideration the changes which passing events in Italy may have introduced into the situation of the inhabitants of Savoy and Nice. At the moment when we are loudly demanding for the inhabitants of Central Italy the right of disposing of their destiny, we cannot, without incurring the charge of inconsistency and injustice, refuse to the King's subjects dwelling on the other side of the Alps the right of freely manifesting their will. However poignant the regret we should feel, if the provinces, once the glorious cradle of the monarchy, could decide on demanding their separation from the rest of the King's dominions in order to join other destinies, we should not refuse to acknowledge the validity of this manifestation declared legally and conformably with the prescriptions of Parliament.

The farce accordingly was played out, the ballot-box was opened, and, by the conjuring process of universal suffrage under the provident care of French emissaries and electioneering agents, the two provinces transferred themselves from Sardinia to France, and another blow was struck at the settlement of 1815.

At the end of March then, last year, the state of things in Italy was this:—Piedmont, Tuscany, Modena, Parma, the Romagna, and the Legations, formed one independent kingdom under the constitutional monarchy of the House of Savoy. Venetia belonged to Austria, as has been her lot since the Treaty of Campo Formio, in 1797; and the rest of Italy,

divided between the States of the Church and the Two Sicilies, retained its old governments without modification or change. The position of Sardinia was excellent. She had added to her dominions some of the finest provinces of Italy, rich in material wealth, and filled with an intelligent, docile, and industrious population. It was her obvious policy now to consolidate her new acquisitions, and to set an example of good government to the rest of Italy, to husband her resources, and to prepare herself for a struggle which might be forced upon her, but which she ought not to seek or precipitate.

Above all, it was her duty to abide loyally by the terms of the Treaty of Peace to which she was a party, and not to cause fresh complexities by ambitious projects or restless intrigues. We find Count Rechberg in January last complaining that 'no tranquillity or repose could exist, nor could the security of peace be assured, so long as the Sardinian Government continued to foment discord and insurrection within the States of her neighbour.'<sup>1</sup> This was with reference to alleged attempts on the part of Sardinia to incite the populations of Venetia and Southern Tyrol to throw off their allegiance to Austria.<sup>2</sup> And soon afterwards M. Thouvenel informed Lord Cowley 'that Prince Metternich had been ordered to call the attention of the French Government to the proceedings of Sardinian agents in Venetia. A despatch containing a series of facts which, if true, were very regrettable, had been communicated to him by the Austrian Ambassador.'<sup>3</sup>

With respect to Austria, we are bound to say that, having accepted the principle of non-intervention, she has adhered to it. Under the most irritating provocation, she has remained purely on the defensive, and neither directly nor indirectly since the peace of Villafranca has interfered in the affairs

<sup>1</sup> See the letter from Lord A. Loftus to Lord J. Russell, Jan. 12, 1860, in the Further Correspondence relating to the Affairs of Italy.

<sup>2</sup> It is, however, right to quote the following:—'A deputation from the [Southern?] Tyrol waited upon Count Cavour a few days ago in order to urge that minister to listen to their com-

plaints, and to explain the view which they take of the position of affairs in their country. Count Cavour declined to enter into any discussion with them upon those points.' Sir J. Hudson to Lord J. Russell, Feb. 3, 1860. Further Correspondence on Affairs of Italy.

<sup>3</sup> Earl Cowley to Lord John Russell, Jan. 30, 1860. Ibid.



of Italy beyond the limits of her own frontier. When the Marches and Umbria were invaded by Piedmontese troops, she did not send a soldier to the assistance of the Pope, although, as a great Catholic power, she must have felt it almost a duty of religion to protect the Holy See from what she believed to be an act of sacrilegious spoliation. When the King of Naples appealed to her for help, she declined to interfere.

We are not called upon to scrutinise the motives which have restrained her, nor to decide how far she may have been held in check by the fear of France or the exhaustion of her treasury. We accept the fact, and we think that in all fairness and justice Sardinia ought to accept it also. That her rule in Venetia has during the last year been harsh and stern, we are not inclined to doubt. The whole province was turned into a camp, martial law was proclaimed, and an overwhelming force was ready to crush the slightest symptom of popular disaffection. But this was the cruel necessity of her position if she was to hold Venetia at all. The time had gone by when she could hope to conciliate the inhabitants of that province by any concessions short of its absolute surrender. They scorned, as a mockery, administrative reform, when their whole hearts were bent on revolution. A bold defiance was hurled against Austria by the Italians, who swore that Venetia should be free; and she could only respond to that defiance by arming her fortresses and strengthening her battalions. She must govern by the sword, or cease to govern altogether. In short, that unhappy state of things existed which Burke described when he said 'Kings will be tyrants from policy, when subjects are rebels on principle.'

Such was—such, alas! is—the state of Venetia. In the Papal States, and especially the Marches, which are separated from Romagna by only an impalpable line, it was with the utmost difficulty that insurrection was kept down. A rising took place in Perugia, on the western slope of the Apennines, in June, 1859. Victor Emmanuel was proclaimed, and a Provisional Government formed. But the town was attacked by 2,000 troops, and Colonel Schmidt, their commander, made himself infamous by the cruel massacre of many of the inhabitants after the gates had been thrown open, and all

resistance was at an end. When Romagna threw off the Papal yoke, the excitement in the Marches became so great that it seemed impossible to prevent a revolutionary outbreak, especially as Garibaldi was on the frontier organising levies, and ready at a moment's notice to pass the imaginary line, invade the province, and raise the standard of revolt : even the Papal troops were beginning to desert and cross over to Romagna. We believe that at this period the efforts of the Sardinian Government were sincere, at all events they were successful in stopping the further progress of insurrection in this part of the Papal States. Garibaldi was forced or persuaded by Farini to retire, and for the moment aggression was prevented.

Let us now turn to the Two Sicilies, where the smouldering fire of discontent was about to burst into a flame.

Never had a dynasty more emphatic warnings that it was pursuing a policy of self-destruction than the dynasty of the infatuated Bourbons at Naples. We speak not now of the warnings conveyed by attempts at insurrection, and by the necessity of stifling in dungeons, and crushing by brute force, the voices of many of the best and noblest of their subjects to prevent the cry against their tyranny from being heard. But we refer to the remonstrances from time to time addressed to them by foreign Powers, who were shocked by the scandal of such a government. Shortly after the revolution of July, which took place three months before the accession of Ferdinand II. to the throne, Louis Philippe wrote to him a letter. He said,—

We are in a period of transition, when often a little must be relinquished so that all may not be lost, and it would give me real joy to learn that your Majesty has given up a system of compression and of severity which caused many days of intense agony to your late august father, and which often banished the smile from the lips of the enlightened King Ferdinand I. Let your Majesty imitate the system in France ; you will be a gainer in every respect ; for, by sacrificing a little authority, you will insure peace to your kingdom, and stability to your house. The symptoms of agitation are so strongly pronounced and numerous in Italy, that an outbreak may be expected sooner or later, accordingly as the stern measures of Prince Metternich may hasten or adjourn it. Your majesty will be drawn into the current if you are not prepared to stem the tide, and your house will be burst in two either by the revolutionary stream or by the measures of repression the Vienna Cabinet may think fit to adopt.

To this letter the King of Naples sent the following reply,

which it is difficult to believe could emanate from anything short of insanity :—

To imitate France, if ever France can be imitated, I should have to precipitate myself into that policy of Jacobinism for which my people has proved feloniously guilty more than once against the house of its Kings. Liberty is fatal to the House of Bourbon ; and, as regards myself, I am resolved to avoid, at all price, the fate of Louis XVI. and of Charles X. My people obey force and bend their necks, but woe's me should they ever raise them under the impulse of those dreams which sound so fine in the sermons of philosophers, and which are impossible in practice. With God's blessing, I will give prosperity to my people, and a Government as honest as they have a right to ; but I will be King, and always.

My people do not want to think ; I take upon myself the care of their welfare and their dignity. I have inherited many old grudges, many mad desires, arising from all the faults and weaknesses of the past ; I must set this to rights, and I can only do so by drawing closer to Austria without subjecting myself to her will. We are not of this century. The Bourbons are ancient, and, if they were to try to shape themselves according to the pattern of the new dynasties, they would be ridiculous. We will imitate the Hapsburgs. If fortune plays us false, we shall at least be true to ourselves.

Nevertheless your Majesty may rely upon my lively sympathy and my warmest wishes that you may succeed in mastering that ungovernable people who make France the curse of Europe.

FERDINAND.

The course of misrule which Ferdinand pursued is strikingly narrated by Miss Horner.<sup>1</sup> It became so bad that, in October 1856, both the English and French Governments took the strong and unusual step of recalling their ambassadors, and breaking off diplomatic relations with the Court of Naples, on the avowed ground of its vindictive and arbitrary conduct, and the cruel inhumanity with which it treated its political prisoners. Ferdinand II. died in May, 1859, and was succeeded by his son, Francis II. The two Western Powers resumed diplomatic intercourse with Naples in hopes that the Government would be carried on in a different and wiser spirit. But it soon became evident that change in the occupant of the throne had made no change in the policy of the government, and the maxim of the young King seemed to be that, if his father had chastised his subjects with whips, he would chastise them with scorpions. Again the voice of warning and remonstrance was heard. In July, 1859, Lord John Russell wrote to Mr. Elliot, the British Minister at Naples, and said :—

<sup>1</sup> 'A Century of Despotism in Naples and Sicily.' The materials of this well-written little book are derived from the larger work, Colletta's 'History of

Naples,' which Miss Horner has recently translated and brought down to the present time.

'It may suit the purposes of those who have thriven on the past abuses to encourage the King to follow in his father's footsteps, for a change of system would probably lead to their ruin ; but it appears to her Majesty's Government that the King has now to choose between the ruin of his evil counsellors and his own : if he supports and upholds them, and places himself under their guidance, it requires not much foresight to predict that the Bourbon dynasty will cease to reign at Naples, by whatever combination, Regal or Republican, it may be replaced.' And he added that, 'neither the moral nor the material support of England is to be looked for by the King, if, by a continual denial of justice, and the refusal of an improved form of internal administration, the Neapolitan people should be driven into insurrection, and should succeed in expelling the present dynasty from the throne.'

In January last year he informed Mr. Elliot that the British Government could only lament the blindness of the Neapolitan Council, and would 'neither accept any part of their responsibility, nor undertake to ward off the consequences of a mis-government which has scarcely a parallel in Europe.' And finally, in March, Mr. Elliott told M. Carafa, the Neapolitan Minister for Foreign Affairs, that he 'felt that the destruction of his Majesty and of the dynasty is inevitable unless wiser counsels are listened to.' When, therefore, not long afterwards, the King, panic-stricken at the rapid progress of insurrection, applied to the Foreign Powers to guarantee to him the possession of his throne, there was no one in this country who did not rejoice to hear that they had refused.

The danger of the King's position was so apparent that even his uncle interposed. In a remarkable letter written to Francis II. on the 3rd of April last year, the Count of Syracuse pointed out what he called the 'blindness and madness' of refusing to acknowledge the principle of Italian nationality, which for centuries had remained in the field of ideas, but had now descended vigorously into the field of action, and he advised the King to shake off the influence of Austria, and identify himself with the policy of Sardinia.

But it was then too late, even if the ears of the Monarch and his advisers had not been deaf to such advice. At the very moment when the Count of Syracuse was counselling a change of policy to avert insurrection, the revolution had begun. Early in April the island of Sicily rose in revolt. It seems to have begun at Palermo, where, on the 4th of April, the Royal troops were attacked, and the town was placed in

a state of siege. But it soon spread like lightning over the island. Messina, Catania, and Agrigentum declared for the insurgents; a secret committee organised their movements, and guerilla bands multiplied so fast that in a short time it was computed that there were not less than 200,000 Sicilians in arms. For a month the insurrection raged in the island without any direct help from Italy. But it produced there a profound sensation, and there was one man who determined that, come what might, he would raise a body of volunteers, and take part in the struggle on the side of liberty. This was Garibaldi, who had already, as we have seen, been with difficulty restrained from invading the Marches and provoking a conflict with the forces of the Pope. He now actively employed himself in organising an expedition to Sicily, and embarked at Genoa on the night of the 5th of May with upwards of 2,000 volunteers. An enthusiastic crowd was assembled to witness their departure, and the only semblance of concealment of their purpose was that they did not march in their uniforms, which had previously been put on board three steamers which were lying outside the harbour. The volunteers were conveyed to them from different points along the shore. Before he reached the shores of Sicily Garibaldi prepared a proclamation, in which he called the Italians to arms in the name of 'Italy and Victor Emmanuel.'

Garibaldi landed in Sicily, at Marsala, on the 11th of May, and on the 14th, as 'Commander-in-Chief of the National Force in Sicily,' assumed the Dictatorship of the island in the name of Victor Emmanuel. Bands of volunteers soon began to pour into the island from Sardinia, and it was in vain for the government to deny (as it did for some time deny) that this was done with its connivance and consent. Every one knew that its professions were belied by its acts, for the undisguised manner in which recruiting went on in Piedmont, Lombardy, and Tuscany, and the collection of vessels at Genoa, of which the destination was Sicily, made ignorance of the object an impossible excuse.

But indeed afterwards, when the success of the enterprise was assured, and Sardinia was about to reap the fruits of Garibaldi's exploit, she took credit to herself for the underhand assistance she had given. In his address from Ancona

to the people of Southern Italy on the 9th of October, Victor Emmanuel made it a matter of boast, and declared—

It was quite natural that the events which had taken place in Central Italy should have more or less excited the minds of the people of South Italy. In Sicily this disposition of the people found vent in open revolt. The people were fighting for liberty in Sicily, when a brave warrior, devoted to Italy and to me—General Garibaldi—sprang to their assistance. They were Italians; I could not, I ought not, to restrain them.

And what was the conduct of England? If ever there was a time when it behoved the English Government to keep itself clear from all suspicion of complicity in insurrection, it was now. Independently of the rules of international law and the plain obligation of one State not to interfere in the internal struggles of another, the Government had preached to Austria and France the doctrine of non-intervention as the one sole principle to be observed by the Great Powers in the question of Italy. It was the attitude and moral influence of England which more than anything else prevented Austria from lending assistance to the Pope. On the one hand, her duty as a Sovereign Power commanded her to respect the obligations of treaties, and to observe the strictest good faith; on the other, her sympathies with liberty forbade her to support Governments, whose misrule she detested, in a contest with subjects driven by oppression into revolt. We shall see by-and-by that, in the opinion of Lord John Russell, this doctrine of non-intervention did not apply to Garibaldi or Victor Emmanuel, and that Garibaldi was justified in interfering because he was an Italian patriot, and Victor Emmanuel because he was an Italian king. But letting this pass, it excluded all who were beyond the limits of that which was once called a 'geographical expression'—Italy. If, however, the unchecked supply of money and men from England, with the knowledge of the Government that they were to be employed in aid of the Sicilian insurgents, constitutes complicity, we do not see how the charge can be denied. Advertisements appeared openly in the newspapers soliciting subscriptions for Garibaldi in his enterprise—the word was afterwards, indeed, softened down to 'testimonial'—and the names of the subscribers were ostentatiously paraded. When the question was asked in the House of Commons in May whether a person so subscribing was liable to be indicted, it was admitted by the

principal Law-Officer of the Crown that, 'according to the common law of England, any subject of the Queen who, either *directly or indirectly*, may supply money in aid of the revolting subjects of any nation or power with whom we are in alliance, commits an offence at common law ;' but at the same time he asserted that there was a long interval between the enunciation of that principle and the manner in which it is to be carried into execution, and that there was no case in which there had been a decision of the general principle in the shape of an indictment for that particular offence. In other words, the Government were not prepared to enforce the law. And this was openly avowed by Lord John Russell in the same debate, in which, of course, he could not take part without dragging in the Revolution of 1688. We doubt, however, the prudence of the Minister who attempts to be facetious when dealing with such topics as filibustering and rebellion. He said :—

A movement such as that which Walker attempted in South America, when he sought to invade and to obtain possession of territory, with no higher object in view than his own selfish interests, is one case ; but a patriot fighting for the independence of his country is quite another case. We know that our sympathies and the judgment of history will distinguish between the cases of the filibuster and felon, and that of the hero and the patriot. We had once a great filibuster who landed in England in 1688. He not only received considerable support, but all the people of England flocked around him. That filibustering was successful. There are cases in which it is not sufficient to say that Garibaldi is a man fighting against a Sovereign whom he ought to respect, or that the Pope is endeavouring to maintain his authority by unlawful expedients. It is not enough to say these things in a glib and fluent manner.

We are not at present concerned with the question whether William of Orange was a filibuster or not ; but we cannot admit that Garibaldi was 'a patriot fighting for the independence of his country,' unless we assume that there was no difference between a subject of Sardinia and a subject of Naples, because both were Italians, and that the Bourbons, who had ruled over the Two Sicilies for upwards of a century, were foreign usurpers. Will Lord John Russell venture to assert that community of language effaces distinction of country, or that, according to the doctrine of natural boundaries, geography is to determine citizenship and allegiance ? If so, it will be difficult for him to deal with the pretensions of France when she claims the frontier of the Rhine ; and we

commend to his attention the following passage from a speech of Lord Palmerston when the question before the House of Commons was not the conduct of Garibaldi in the invasion of Sicily, but the policy of Napoleon in the annexation of Savoy:—

For, Sir, if you come to natural boundaries, and if the country which claims them is to be the judge of where they are, it is very easy to see that Europe would find it very difficult to decide where danger would begin and where resistance upon a grand scale ought to be undertaken. If language were to be the measure of aggrandizement, it is plain that it would be difficult for many countries to show that they had a good title to possessions which they now hold. Therefore, these two principles of natural boundaries and of community of language are principles the establishment of which would be very dangerous to Europe, however small comparatively speaking, might be the instance in which they were carried into effect.

But sympathy with Garibaldi soon assumed a more active form. He sent over to England an accredited agent to collect not only money, but men; and a considerable body of volunteers enrolled themselves and embarked for Italy to fight against a government with which their Sovereign was at peace. This was not only in defiance of international law, but in direct contravention of the Foreign Enlistment Act. The British Government were bound to put a stop to such a state of things; but they did nothing. We say that it is a scandal and disgrace, and a fatal and dangerous precedent, to allow this kind of privateering in the service of insurrection. The Sicilians may have had the holiest of causes; but it was no cause of ours. And we hold that, whether it be to support a throne like that of Spain in 1835, when the Foreign Enlistment Act in this country was suspended by an Order in Council, or to upset a throne like that of Naples in 1860, Englishmen have no right to take up arms in a quarrel in which their Government is not engaged and in which they have no concern. And mark the consequences that may follow from permitting such a course. At the very time when volunteers were enlisting in England for Garibaldi, the emissaries of the Pope were raising recruits in Ireland for the defence of the Holy See: so that it was quite within the bounds of probability that these adventurers might meet in hostile conflict on the same battle-field, and Englishmen and Irishmen cut each other's throats, while the one side shouted 'Victor Emmanuel for ever!' and the other 'Long live the Pope!' Besides, the honour of the English name is carried



with the English flag, and it is exposed to all the obloquy which the misfortune or misconduct of those who bear it may bring upon it.<sup>1</sup>

We have not space nor is it necessary to give details of the marvellous success of Garibaldi—

Whose name in arms through Europe rings,  
Filling each mouth with envy or with praise,  
And all the jealous monarchs with amaze,  
And rumours loud that daunt remotest kings.

In an incredibly short time, and notwithstanding the resistance of the royal troops, which with wanton cruelty bombarded Palermo, he reduced all the fortified places in Sicily, except the citadel of Messina. He landed at Melito on August 19, and made his entry into Naples on September 8. And how did he enter? Not at the head of victorious legions

<sup>1</sup> Even tourists should beware how they comport themselves when they seek among foreigners a little excitement and temporary importance. The following exploit of Mr. E. James, incredible upon any authority save his own, was communicated by himself to one of the daily journals. (It may be premised that Mr. James had ventured, we do not know in what capacity, but attired in a 'half-military, half-navvy equipment,' as the artist of the 'Illustrated News' calls it, a little too near the scene of hostilities.)

'The cry arose that the "Cavalry were coming!" and the panic seized the troops. In the mêlée I lost my carriage; my servant had very indiscreetly taken shelter with some priests in the top of a convent, and during his absence the carriage disappeared. I had to walk along the high road to Caserta; a little Swiss soldier who had been wounded by a rifle-ball in the wrist, and was going to the hospital there, accompanied me. On our way I saw seven or eight soldiers, among whom were two officers—the Swiss soldier told me they belonged to a Sicilian regiment—seated on one of the long agricultural carts, which they had taken from a field adjoining the road, and were proceeding at a rapid pace to Caserta. As they met troops coming from that town to relieve Santa Maria they spread the panic among them; they cried out, "The cavalry are com-

ing!" "The artillery are close on us!" "We shall all perish!" "Back to Caserta, back!" More than one regiment wavered and turned. The officers behaved firmly and well, drew their swords, and urged their men on; but the alarm had spread, and the soldiers refused to follow. I followed these mischievous and cowardly fellows to Caserta, asked for the colonel of a regiment who spoke French, gave him my name and address, pointed out the fellows as they entered the square in front of the Palace, and, *although I did not request it as a personal favour*, I certainly suggested that they should be marched out and shot; they were at once taken to the guard-house, and were no more seen by me. It is only just to say that several regiments passed these dastardly renegades unnoticed, and marched on to the relief of the village.'

That is to say, a mere foreign spectator (for notwithstanding the pistols and 'half-military equipment,' we cannot suppose that he belonged, even as a volunteer, to the Garibaldian force), being rather out of humour at 'having to walk,' *suggested*—all but requested—that seven or eight soldiers, who were coming along the road with himself, but were more fortunate in obtaining carriage, should—for conduct witnessed and not animadverted upon by *many* officers of their own army—be executed without trial!

with all the pomp of war, but, accompanied by a few friends, as a passenger in a railway-carriage! He had conquered by the mere sound of his name, as the walls of Jericho fell down with a shout. The only place where anything like resistance was attempted was Reggio, the fortress which commands the Strait opposite Messina, and which was taken in a few hours. At San Giovanni a body of Neapolitan troops, two thousand strong, surrendered without a blow; and we are told that when Garibaldi went amongst them he was almost torn to pieces 'by hugging and embracing.' At Monteleone ten thousand more laid down their arms; and, after staying a few days at Salerno, the Dictator of the Two Sicilies, accompanied by his staff, proceeded by the railway-train to the capital.

But what in the meantime had become of the King and the main body of the Neapolitan army? As the insurrection in Sicily went on, and all hope of putting it down by force was at an end, Francis II. endeavoured to avert ruin by concession. He dared not trust himself in his capital, but from Portici, at the end of June, he issued a decree proclaiming the Constitution of February 10, 1848, a general amnesty of political offences, and the liberty of the press. He also charged Commander Spinelli with the formation of a liberal ministry, which was to frame the articles of a Statute 'on the basis of national and Italian institutions;' and he convoked an assembly of the national Parliament for September 10. The tricolor flag was hoisted at the castle of St. Elmo. Representative institutions were decreed for Sicily, and one of the royal princes was to act as viceroy of the island. But these and other concessions came too late. Many towns revolted, and the army showed that it could not be trusted. The King had also sent ambassadors to Turin to propose a confederacy with Sardinia upon Italian constitutional principles. But the Sardinian Government rejected these overtures. Abandoned by all, on the morning of September 6 he embarked on board a Spanish steamer, and took refuge in the strong fortress of Gaëta, which, with that of Capua, now alone of all his dominions remained in his hands.

Leaving Naples for a moment, let us turn to the Papal States. The Pontifical Government did all in its power at the

beginning of last year to recruit its army by foreign mercenaries; and early in April the well-known French General, Lamoricière, was appointed to the chief command. We do not expect historical accuracy from a soldier engaged to defend a desperate cause, but it is startling to be told in a military order of the day that 'Revolution, like Islamism in bygone times, now threatens Europe; and now, as then, the cause of the Papacy is the cause of the civilisation and of the liberty of the world.' We pass over the period from April to September, during which the new levies were drilled, and garrisons occupied, and attempts at insurrection sternly put down. For, as may well be supposed, the events that took place in Sicily and Naples shook the States of the Church to their centre, and nothing but the strong hand of military repression prevented the people from rising both in Umbria and the Marches, and throwing off the Papal yoke.

It was at this juncture, and, unless we are mistaken, very soon after some of the principal persons of the Sardinian Court had personally communicated with the French Emperor at his newly-acquired city of Chambery, that Count Cavour addressed to Cardinal Antonelli, the Cardinal Secretary of the Holy See, a letter which, in its bold contempt of the rules of international law, is without a parallel. It is dated Turin, September 7:—

Eminence—The Government of H. M. the King of Sardinia could not without serious regret see the formation and existence of the bodies of foreign mercenary troops in the pay of the Pontifical Government. The organisation of such corps, not consisting, as in all civilised governments, of citizens of the country, but of men of all languages, nations, and religions, deeply offends the public conscience of Italy and Europe. The want of discipline inherent to such troops, the inconsiderate conduct of their chiefs, the irritating menaces with which they pompously fill their proclamations, excite and maintain a highly dangerous ferment. The painful recollection of the massacre and pillage of Perugia is still alive among the inhabitants of the Marches and Umbria. This state of things, dangerous in itself, became still more so after the facts which have taken place in Sicily and in the kingdom of Naples. The presence of foreign troops, which insults the national feeling, and prevents the manifestation of the wishes of the people, will infallibly cause the extension of the movement to the neighbouring provinces. The intimate connection which exists between the inhabitants of the Marches and Umbria, and those of the provinces annexed to the States of the King, and reasons of order and security in his own territory, lay His Majesty's Government under the necessity of applying, as far as is in its power, an immediate remedy to such evils. King Victor Emmanuel's conscience does not permit him to remain a passive spectator of the bloody repression with which the arms of the foreign mercenaries would extinguish every manifestation of national feeling in Italian blood. No

government has the right of abandoning to the will and pleasure of a horde of soldiers of fortune, the property, the honour, and lives of the inhabitants of a civilised country. For these reasons, after having applied to His Majesty the King, my august Sovereign, for his orders, I have the honour of signifying to your Eminence that the King's troops are charged to prevent, in the name of the rights of humanity, the Pontifical mercenary corps from repressing by violence the expression of the sentiments of the people of the Marches and Umbria. I have, moreover, the honour to invite your Eminence, for the reasons above explained, to give immediate orders for the disbanding and dissolving of those corps, the existence of which is a menace to the peace of Italy. Trusting that your Eminence will immediately communicate to me the measures taken by the Government of his Holiness in the matter, I have the honour of renewing to your Eminence the expression of my high consideration.

CAVOUR.

In this letter we find an European statesman demanding, in the name of his Government, under the threat of invasion, that an independent Power shall dismiss its army on the ground that it is composed of foreign mercenary troops, who are engaged in the repression of the 'manifestations of national feeling,' or, in other words, putting down a wide-spread insurrection. We have no sympathy with the Papal Government; we believe it to be one of the very worst in existence, and we rejoice in the defeat of General Lamoricière and his polyglott soldiers, collected from all corners of Europe. But we cannot blind ourselves to the fact that the reasoning of Count Cavour is false and dangerous. It is false, because every State has the undoubted right to take mercenaries into its pay—we believe that there is no nation in Europe which has not, at some time or another, employed them; and it is dangerous, because it sets a precedent for interference between a government and its subjects which would lead to interminable war. It is impossible to deny the force of Cardinal Antonelli's reply, when he said:—

The new principles of public law which you lay down in your letter would be indeed sufficient to dispense me from giving any answer at all, they being so contrary to those which have constantly been acknowledged by all governments and nations. . . . . Your Excellency concludes your painful despatch by inviting me, in the name of your Sovereign, to immediately order the disarming and disbanding of the said troops. This invitation was accompanied by a sort of menace on the part of Piedmont, in case of refusal, to prevent the action of the said troops by means of the Royal troops. This involves a quasi-injunction which I willingly abstain from qualifying. The Holy See could only repel it with indignation, strong in its legitimate rights, and appealing to the law of nations under the ægis of which Europe has hitherto lived. . . . .

Whether the Sardinian minister could or could not have put his interference on better grounds, we shall not now en-

quire ; but we cannot admit that Sardinia alone, of all the European States, is, like 'a chartered libertine,' to be held free from the obligations of international law, or that she is to be permitted, without a protest, to lay down new principles of which the logical consequence would be that the right of the strongest is that alone which ought to be recognized in the relations of two independent governments. For if Sardinia may with impunity make demands which are contrary to the received law of nations, and invade the territory of her neighbour unless those demands are complied with, *à fortiori* France, and Austria, and Russia may do the same. And it would be difficult to justify waging war with Russia in the Crimea because she had crossed the Danube for the purpose of holding Wallachia and Moldavia as a 'material guarantee.' We feel the more bound to challenge the dangerous doctrine of Count Cavour, because it has received the high sanction of Lord John Russell, the Foreign Minister of England, in a despatch which has created no little sensation in Europe, and which we trust will not pass without comment when Parliament assembles. To anticipate for a moment our narrative of facts, we must mention that, when the Papal States were invaded by the Piedmontese army under Generals Fanti and Cialdini in September, the Emperor of the French (whatever may have been his real sentiments) recalled his Minister from Turin ; and when at a later period the same army crossed the Neapolitan frontier, in October, the Emperor of Russia withdrew the Russian Mission, there being no ambassador from that capital, and the Prince Regent of Prussia expressed his dissatisfaction at the conduct of Sardinia, although he did not go so far as to recall the Prussian Minister. It was after these diplomatic acts that Lord John Russell felt himself called upon, by that impulse which leads him to write letters more celebrated than successful, to read to the Great Powers a lecture on international law, and to establish the principle which, if true, is at least novel, that where subjects have 'good reasons' for taking up arms against their governments, it is right in another State to render them assistance. In a despatch to Sir James Hudson, the British Minister at Turin, dated October 27, Lord John Russell said,—

The large questions which appear to them to be at issue are these :—Were the

people of Italy justified in asking the assistance of the King of Sardinia to relieve them from governments with which they were discontented? and was the King of Sardinia justified in furnishing the assistance of his arms to the people of the Roman and Neapolitan States? There appear to have been two motives which have induced the people of the Roman and Neapolitan States to join willingly in the subversion of their governments. The first of these was, that the Government of the Pope and the King of the Two Sicilies provided so ill for the administration of justice, the protection of personal liberty, and the general welfare of their people, that their subjects looked forward to the overthrow of their rulers as a necessary preliminary to all improvement in their condition.

The second motive was, that a conviction had spread since the year 1849 that the only manner in which Italians could secure their independence of foreign control was by forming one strong government for the whole of Italy. The struggle of Charles Albert in 1848, and the sympathy which the present King of Sardinia has shown for the Italian cause, have naturally caused the association of the name of Victor Emmanuel with the single authority under which the Italians aspire to live.

Looking at the question in this view, Her Majesty's Government must admit that the Italians themselves are the best judges of their own interests.

That eminent jurist Vattel, when discussing the lawfulness of the assistance given by the United Provinces to the Prince of Orange when he invaded England and overturned the throne of James II., says—'The authority of the Prince of Orange had doubtless an influence on the deliberations of the States-General, but it did not lead them to the commission of an act of injustice, for when a people for good reasons take up arms against an oppressor, it is but an act of justice and generosity to assist brave men in the defence of their liberties.'

Therefore, according to Vattel, the question resolves itself into this—Did the people of Naples and of the Roman States take up arms against their governments for good reasons?

Upon this grave matter Her Majesty's Government hold that the people in question are themselves the best judges of their own affairs. *Her Majesty's Government do not feel justified in declaring that the people of Southern Italy had not good reasons for throwing off their allegiance to their former governments; Her Majesty's Government cannot, therefore, pretend to blame the King of Sardinia for assisting them.*

We need not quote the rest of the letter, for with it we have no concern. *We* are not 'partizans of the fallen governments,' nor do we assert that the people of the Roman States were attached to the Pope, and the people of the kingdom of Naples to the dynasty of Francis II. But we pray attention to the passage which we have marked in italics. Her Majesty's Government cannot blame Sardinia for assisting a people which has good reasons for throwing off their allegiance. Who is to be the judge of those reasons? Was there ever yet a revolt in which the insurgents did not believe themselves to be in the right? and was there ever a government which did not believe rebels against itself to be in the wrong? Lord John Russell shelters himself behind the authority of Vattel, and, as usual,

draws his illustration from his stock precedent—the Revolution of 1688. But, in the first place, Vattel is a very poor authority; as Chancellor Kent says of him, ‘he is not sufficiently supported by the authority of precedents which constitute the foundation of the positive law of nations.’<sup>1</sup> And in the next place Lord John Russell ought to have continued the quotation. Vattel goes on to say, ‘Whenever, therefore, a civil war is kindled in a State, foreign Powers may assist that party which appears to them to have justice on its side.’ This, no doubt, is the logical consequence of his previous proposition; but it proves its falsity. It is, in fact, a licence for intermeddling, which is wholly destructive of national independence. These doctrines, as we shall show a little later, were repudiated by the Sardinian Government, and they are wholly at variance with what has hitherto been the policy of this country in the affairs of Europe. We will cite a memorable example. When, in 1821, revolution broke out in Spain, and the progress of the Liberals at length threatened destruction to the monarchy, the Congress of Verona was assembled in the following year to consider the course to be adopted by the Great Powers. Lord Londonderry was to have gone as the Plenipotentiary of England, but, on his sudden death, the Duke of Wellington was appointed in his stead, and in the instructions drawn up by the deceased statesman and transferred to the Duke, we find the following passage: ‘With respect to Spain there seems nothing to add to or vary in the course of policy hitherto pursued. Solicitude for the safety of the royal family, observance of our engagements with Portugal, *and a rigid abstinence from any interference in the internal affairs of that country*, must be considered as forming the limits of his Majesty’s policy.’ Mr. Canning, who had succeeded as Foreign Secretary, was equally explicit in his instructions to the Duke, and said, ‘I am to instruct your Grace at once frankly and peremptorily to declare that to any such interference, come what may, his Majesty will not be a party.’ The Duke of Wellington refused to sign the *procès verbal* of the Conference, because the opinions of the other Powers were therein expressed in favour of intervention; and in a separate note which he addressed to the Plenipotentiaries of the Allies

\* Kent’s Commentaries, i. 17.

(Nov. 20, 1822) he vindicates the principle on which Great Britain was resolved to act. He said, 'His Majesty's Government is of opinion that to animadvert upon the internal transactions of an independent State, unless such transactions affect the essential interests of his Majesty's subjects, is inconsistent with those principles on which his Majesty has invariably acted on all questions relating to the internal concerns of other countries; that such animadversions, if made, must involve his Majesty in serious responsibility if they should produce any effect, and must irritate if they do not; and, if addressed to the Spanish Government, are likely to be injurious to the best interests of Spain, and to produce the worst consequences upon the public discussions between that country and France. The King's Government must therefore decline to advise his Majesty to hold a common language with his allies upon this occasion; and it is so necessary for his Majesty not to be supposed to participate in a measure of this description, and calculated to produce such consequences, that his Government must equally refrain from advising his Majesty to direct that any communication should be made to the Spanish Government on the subject of its relations with France.'

But, moreover, if it was right in Sardinia to help the oppressed subjects of the Pope, she was entitled to render aid to the oppressed subjects of Austria, and surely it would have been as much an act of 'justice and generosity' to assist the Italians of Venetia as it was to assist the Italians of the Papal States. Lord John Russell, at all events, is the last man who could blame her for such an act; and yet, strange to say, less than two short months before his letter of October, Lord John Russell had written another in which he denounced such a scheme, and even went so far as to hint that if it were attempted Great Britain herself might take part in hostilities against Sardinia. We will quote some passages from this despatch, which was addressed to Sir James Hudson, and dated August 31. The last sentence, in which the interests of England in the Adriatic are made the plea why Sardinia should abstain from 'an act of justice and generosity in assisting brave men in the defence of their liberties'—we are quoting the words of Vattel—gives a selfish and most ungracious



reason for the policy which the English Minister advises the King of Sardinia to adopt :—

. . . Still, although Austria, France, and England have abstained from all interference in Sicily and Naples, there nevertheless exists a fear at Paris and at Vienna that the annexation of the Roman and Neapolitan States may be followed by an attack by the Italian forces upon the Venetian possessions of the Emperor of Austria. It is clear that such an attack could not take place without the assent of the King of Sardinia. It is equally clear that, taking a legal view of the question, the King of Sardinia has no excuse for breaking the Treaty of Zurich, recently concluded and signed. The King of Sardinia was free not to accept the preliminaries of Villafranca and the Treaty of Zurich ; but, having renounced a continuation of the war, after having given his royal word to live in peace and friendship with Austria, he is no longer free to cast aside his obligations and direct a wanton attack against a neighbouring Prince.

It is, moreover, evident in the present case, that interests go hand-in-hand with the prescriptions of duty. An attack against the Austrian enemy encamped behind powerful fortresses is not an undertaking in which success may be reasonably expected. And if such an attack should fail, it would perhaps offer to Austria the desired opportunity of restoring the Romagna to the Pope, and Tuscany to the Grand Duke.

There is good reason to believe that neither of these acts would be considered by France as irreconcilable with the Treaty of Zurich ; yet such act would certainly be most detrimental to the independence of Italy and to her future tranquillity. The King of Sardinia in gaining Lombardy, Parma, and Modena, but losing Savoy, Nice, and Tuscany, would no longer be able to resist Austria, who would be fighting for a good cause—the preservation of her territory and the redemption of her military honour. The only hope left to Sardinia in such a conflict would be to bring France into the battle-field, and excite an European war. We trust Count Cavour will not give way to such dangerous illusions. The Great Powers are bent upon the maintenance of peace, and Great Britain has interests in the Adriatic over which she keeps a most careful watch.

We imagine that this advice will not have much effect if the time comes when Victor Emmanuel believes that he can attack Venetia with success, and that Lord John Russell will then find his letter of October quoted against his letter of August. Sardinia seems determined to care as little for the maxims of international law as the Bey of Tunis regarded them on a certain memorable occasion when he rid himself of the French consul.

To return, however, to the order of events. At the beginning of September General Lamoricière, commanding the Papal army, which was badly provided with artillery and means of transport, and of which only a small portion had rifled muskets, was assured by Cardinal Antonelli that the Piedmontese troops would prevent an invasion of the Marches by others, and would make no attack themselves. The

Piedmontese Generals, however, after a notification which cannot be called a warning, entered the Papal States on the 11th of September, in two divisions. Lamoricière was in want of money and of bread, and, to keep open his communications with Ancona, he attacked the Sardinian General, between Crocetta and Castel Fidardo, on the 18th of September. The battle was fierce and bloody, and the Papal troops were utterly defeated. General Lamoricière himself escaped with difficulty, with a handful of horsemen, to Ancona. Amongst those who fell on this disastrous day was General de Pimodan, a young French officer connected with some of the noblest families in France, who had offered his sword to the Pope to defend what he believed to be the holy cause of religion. Next day 4,000 of the Pontifical troops laid down their arms at Loretto. They were allowed the honours of war, and both officers and men were permitted to return to their homes. Indeed, throughout the whole campaign the conduct of the Piedmontese was marked by humanity and forbearance. Spoleto, which was garrisoned by 500 men, 300 of whom were Irish, had surrendered on the 17th, and after the battle of Castel Fidardo the Papal army outside the walls of Ancona had ceased to exist. Ancona was immediately invested by land and sea, and on the 29th of September was forced to capitulate.

The result of these successes was that, except within the charmed circle occupied by the French army at Rome, the whole of the population declared for King Victor Emmanuel, and the temporal government of the Pope was at an end. In fact, that very state of things had come to pass which had, with a kind of prophetic inspiration, been suggested at the beginning of the year by the pamphlet '*Le Pape et le Congrès*,' to which we have already alluded. And it is not unreasonable to presume that, however much the French Emperor may have thought it decent to censure openly the conduct of Sardinia in the invasion of the States of the Church, he did not secretly disapprove of a step by which that result was brought about which he had indicated as the best solution of the Papal difficulty.

Rome, and the territory immediately around Rome, were, at all hazards, to be preserved to the Pope. Accordingly,

when the plot thickened, and the Sardinian army was pressing onwards, and Umbria and the Marches were proclaiming Victor Emmanuel, fresh French troops were poured into Rome, and General de Goyon, who had been recalled to Paris, was ordered to resume his former command, 'to protect,' as he announced in his order of the day, 'the interests of Catholicism in the person of the Holy Father, who is its most legitimate and most high representative, and to guarantee the safety of the Holy City, which is its seat.'

We need not repeat our emphatic condemnation of the French occupation of Rome. It began in a violent act of injustice towards a people which, copying the example of France, had chosen a Republic as their form of government. We are not informed what pledges Lord Palmerston obtained or sought as to its duration; but it has been continued in direct defiance of the principle of non-intervention which France insists that other nations shall observe in the affairs of Italy. It is not, however, difficult to assign reasons why the French Emperor chooses to prolong such an anomalous state of things. First, it may be alleged that the honour of France is engaged not to abandon a government which she has upheld so long. Secondly, Napoleon III. hopes by such support to conciliate towards his throne Roman Catholic sentiment, and to enlist on his side the clergy, who have much influence in France. And, thirdly, by holding his position at Rome he secures a vantage-ground in Italy which admits of indefinite extension. It is the end of the wedge, which at any moment may be driven home. He gets, however, small thanks for his pains. He has done too much or too little. He has gone too far not to be required by the Pope to go a great deal farther. He has been passive while sacrilegious hands were spoiling the patrimony of the Church, when a word from him would have arrested the invader. He, like the King of Sardinia, has dared to draw distinctions between the temporal Sovereign of the State and the spiritual Head of the Church, and has appealed to history to prove that, from time to time, ecclesiastical territories have been taken by Catholic Powers from the Holy See, and that, in the negotiations of 1815, the Romagna and the Legations were treated as belonging to the allies by right of conquest, and were on

the point of being permanently separated from the Pontifical States.<sup>1</sup>

These things are neither forgiven nor forgotten ; and it is only in despair of other help that the Pope sullenly accepts the protection of France, which alone saves the Government of the Vatican from destruction.

But what in the meantime was the state of things at Naples ? The King had abandoned his capital, but not his kingdom, and behind the line of the Volturno had turned at bay against the insurgents with an army which could not be reckoned at less than 30,000 strong. To conquer this would seem, to ordinary minds, the first and indispensable task which Garibaldi had to perform. But it shows the character of the man, and the idea which had taken possession of his soul, that he was ready even then to precipitate a conflict with the French at Rome and the Austrians in Venetia. 'Italians,' he exclaimed in a proclamation, 'the moment is come ! Our brothers are already fighting the stranger in the heart of Italy. Let us go and meet them in Rome, and thence march together towards the Venetian land.' We shall not attempt to give anything like a detailed account of the feverish struggle that ensued at Naples—a struggle not of arms, but of principles, or rather factions—while the Dictator had to divide his energies between the duties of civil government and those of military command. But it must not be forgotten that Garibaldi's political creed had always hitherto been that of the Republicans. His political friends and associates were such men as Mazzini, Saffi, Crispi, and Bertani, and it seems to have been from personal admiration of Victor Emmanuel, 'il Ré Galantuomo' as he is called in Italy, and of his gallant bearing in the field of battle, rather than from any attachment to monarchy, that he did not proclaim a Republic when he first landed in Sicily. But for some time it was doubtful whether Victor Emmanuel or Mazzini would carry the day at Naples. One of the first acts of Garibaldi was to make over the Neapolitan fleet to the Sardinian Admiral Persano, and he headed his decrees 'Italy and Victor Emmanuel.' But he appointed Mordini and Sirtori—both men of extreme opinions

<sup>1</sup> See the despatch of M. Thouvenel Further Correspondence on Affairs of  
to Count Persigny, February 8, 1860. Italy.

—the one Pro-Dictator of Sicily and the other Pro-Dictator of Naples. His Ministry also was of the same complexion, and became, indeed, decidedly Republican when Libertini, de Boni, Conforti, Anguissola, and Rainieri found themselves in power. But the hopes of this party were suddenly disappointed by the appearance of a decree in which Garibaldi declared it indispensable to promulgate 'the fundamental law of the Italian *Monarchy*,' and proclaimed *lo Statuto*, the Sardinian Charter, which had been granted by Charles Albert to his subjects on the 4th of March, 1848. This seemed as if he were in favour of annexation to Piedmont, but, to prove the contrary, he paid a flying visit to Sicily, and at Palermo, in a public address, thanked the people for their resistance to the scheme, telling them, 'At Rome we will proclaim the kingdom of Italy,' but not then, while there were 'brothers beyond the Volturno with chains on their ankles.' The truth is that, intoxicated with success, he thought that neither the French nor the Austrians would be able to stop his victorious career, but he well knew that, if annexation were proclaimed, his mission was at end. He would no longer be master of the helm, and more cautious pilots would avoid the rocks against which, in his heated imagination, he was ready to dash the ship. Some of the appointments were laughable from their absurdity, such as that of the French novelist M. Dumas, who was made Director of the National Museum, with a special commission to present a project to the Dictator on the excavations of Pompeii. But it was a more serious matter, and one full of significance, when a decree appeared awarding a pension to the family of Agesilao Milano, the Neapolitan soldier who, in 1856, attempted to assassinate Ferdinand II. with his bayonet, and was hanged for the crime. By another decree, all the archiepiscopal and episcopal funds were declared national property, but a provision was made for the maintenance of the clergy. For some time the office of Secretary to the Dictator was held by Bertani, a man about whose republican principles there was little doubt, and during the first two or three weeks of Garibaldi's 'reign' it seemed as if the end would be the proclamation of a republic at Naples. He was surrounded by an atmosphere of plots and intrigues, which thickened as time advanced. But his personal devotion

to King Victor Emmanuel, and his conviction that without the help of Piedmont it would be impossible to work out the idea of Italian unity, determined him to adhere to his original plan of annexation, while he reserved to himself the right of postponing the period of its accomplishment. Bertani was dismissed from the secretaryship, and Sirtori was succeeded by the Marquis Pallavicini, one of whose first acts was to address a letter to Mazzini, calling upon him to retire from Naples, on the ground that his presence as the representative of the Republican principle created embarrassment to the government and dangers to the nation. Mazzini, as might be expected, refused, saying that he was not prepared spontaneously to make another sacrifice, having already made one when, 'interrupting the apostolate of his faith, for the sake of unity and concord, he declared that he accepted monarchy not out of respect for ministers or monarchs, but for the satisfaction of a blinded majority of the Italian people.' This led to a ministerial crisis; for Mazzini appealed to Garibaldi, and he stood by his friend. Pallavicini and his colleagues in consequence resigned. But the populace at Naples shouted 'Down with Mazzini!' 'Down with Crispi!' and Pallavicini resumed office. And, besides the party of the Annexationists and the party of the Republicans, there was a third party, that of the 'Unitarians,' so called not in a theological but in a political sense. Their creed was that Piedmont should become Italian, and not Italy Piedmontese. They objected to the charter and code of Sardinia becoming the charter and the code of the rest of the Peninsula, unless and until in some solemn conclave of the representatives of the nation such was declared to be the will of the whole people. Pallavicini wished to break up this association. The leaders appealed to Garibaldi, and declared that it should continue, being under his special guarantee. And yet the next day he issued an address to the people in which he announced that 'to-morrow Victor Emmanuel, King of Italy, the elect of the nation, will break down the frontier which has hitherto divided us for so many centuries from the rest of our country,' and he called upon them to receive 'the sent of Providence,' when there would be no more political colours, no more parties, no more discords. At the same time he proclaimed that the Two

Sicilies form an integral part of one and indivisible Italy, under her constitutional King, Victor Emmanuel, and his descendants; and that he would, on the arrival of that monarch, depose in his hands the Dictatorship conferred upon him by the nation.

The truth is, that the advent of the King of Sardinia had become a political necessity, unless the revolution was to end in anarchy or a restoration. The Neapolitan royal army still held the line of the Volturno, and occupied the two fortresses of Capua and Gaëta. On October 1 Francis II. in person led a general attack against the insurgent forces at Santa Maria and San Angelo, and a battle was fought which lasted the whole day. Garibaldi was victorious; but the obstinacy of the struggle showed that the royalists were strong and determined; and, if they had been successful, nothing would have prevented the King's entry into his capital. Reactionary symptoms were beginning to show themselves in the provinces; and in Naples itself councils were divided, and chaotic confusion seemed about to become the order of the day. It was clear that Garibaldi could fight, but could not govern; and the only hope of the moderate Liberals was in the intervention of Piedmont. Addresses were hastily got up and despatched to Victor Emmanuel, praying him to take possession of the kingdom of the Two Sicilies; and certainly, if ever there was a case in which, if the act was to be done at all, 'twere well it were done quickly,' it was now. But how could this be? The King of Sardinia was at peace with the King of Naples, and there was no cause or pretext for war. How, then, could Victor Emmanuel invade the dominions of Francis II., and give orders to his army to attack an ally in the agony of conflict with insurrection? We have seen that Lord John Russell solves the difficulty by quoting a passage from Vattel, and saying that the insurrection was just. Count Cavour has added other precedents to the solitary one which Lord John Russell's industry had discovered in Vattel; but he uses them for the purpose of showing, not that the conduct of Sardinia was consistent with international law, as Lord John Russell would have us believe, but that she sinned in good company, and could plead examples of its *violation*. In his letter to Count de Launay, the Sardinian Minister at Berlin, dated

November 9, in which he vindicates the policy of his Government, he triumphantly asks :—

Did not France and England, when they lent aid to insurgent Flanders, *trample international law under foot*? Was not this said law *broken* by Louis XIV. when he assisted the Hungarian insurrection—by the States General when they supported William of Orange against James II.—by Louis XVI., who so nobly contributed to the liberation of the United States of America—by Christian Europe, who delivered Greece from the Ottoman domination?

Victor Emmanuel, however, cared little for precedents or the opinions of jurists ; but he cared much to be King of Italy. Emboldened by the success of his invasion of the Papal States, and relying upon the passive attitude of the Great Powers, he avowed himself the leader of the national movement, and assumed the responsibility of its guidance. In an address from Ancona to the people of Southern Italy, on October 9, he said :—

All Italy has feared that, under the shade of a glorious popularity, of a classic probity, there was a faction clustering which was ready to sacrifice the immediate triumph of the nation to the chimeras of its own ambitious fanaticism. All the Italians have applied to me to avert this danger. It was my duty to do so, because in the existing state of things it would not be moderation, it would not be wisdom, but weakness and imprudence, if I did not assume with a firm hand the direction of the national movement for which I am responsible before Europe.

And he added,—‘In Europe my policy will not be without its use, by reconciling the progress of peoples with the stability of monarchs.’ It certainly did not reconcile the progress of the people of the Two Sicilies with the stability of the throne of the Bourbons ; nor if Hungary breaks out into insurrection is it likely to reconcile the progress of the Hungarians with the stability of the Austrian monarchy. If, indeed, it means that despotic governments are to take warning, and that their best chance of averting revolt is to give their subjects a constitution, we are disposed to a certain extent to agree with the assertion. But bitter experience has proved that constitutions cannot be safely extemporised, and that when this is attempted the result too often is disastrous failure. The rest may be soon told. Immediately after his address from Ancona, King Victor Emmanuel, without any declaration of war, and while the Neapolitan ambassador was still at Turin, gave orders to his army to cross the frontier into the Abruzzi, and it advanced in the direction of Capua.



The leading columns came into collision with the Royalist troops on the heights of Macerone, near Isernia, and defeated them, compelling them to retire upon Capua. Garibaldi advanced with a body of volunteers to meet the King, and on October 26 their first interview took place, between Teano and Speranzano.

In the meantime the question of annexation to Piedmont had been put to the vote, and the result was an overwhelming majority in its favour.<sup>1</sup> The King entered Naples on November 7, amidst the clamorous applause of the populace, and immediately visited the cathedral, where St. Januarius did not refuse to recognise the successful monarch, and his blood liquefied in the most orthodox manner. Two days afterwards Garibaldi quitted Naples for his solitary home in the Island of Caprera, having first issued a proclamation, in which he called upon the Italians to be ready with a million of men in arms in March, 1861.

Thus, then, the great drama has been accomplished ; and Victor Emmanuel may be hailed in the words of Banquo :—

Thou hast it now, King, Cawdor, Glamis, all.

We will not continue the quotation, for we have no wish to use hard language, although we have felt bound to express our opinion of the conduct of Sardinia in the ambitious game that she has played. If the rules of international law—which are the safeguard of the weak against the strong—are to be set aside, and one State is to be allowed to act as Sardinia has done, and to determine in what way the government of another is to be carried on, we confess that we cannot see without alarm the consequences to which such a doctrine must lead. It is no answer to say that a government is bad, and therefore ought to be overthrown. The question, as we have already said, is not as to the right of subjects to resist, but the right of a stranger to interfere. But then it is alleged that Sardinia is not a stranger, because she is Italian ; and that this gives her a title, which makes the case exceptional. We doubt, however, whether even this principle is large enough to satisfy those who are ready to defend interference in Italy. They take the broader ground of sympathy with oppression, and

<sup>1</sup> The numbers we believe were—Yes, 1,302,064 ; No, 10,312.

the duty of freemen to assist those who are struggling to be free. *Homo sum, humani nihil a me alienum puto*, is their political motto ; and this of course transcends all difference of country and distinction of race. With such reasoners it is of no use to argue. They may plead the authority of Vattel and Lord John Russell, but they will be denounced by the great majority of thinking men as the plagues and pests of kingdoms ; and when their enterprise fails, and they are captured, they will be dealt with, not as prisoners of war, but as pirates and buccaneers. But the doctrine of nationalities is more plausible. The geographical position of Italy, cut off by the sea and the Alps, the boundaries of nature, from the rest of Europe, is apt to suggest the idea that its different territories were rather the provinces of one kingdom than independent states. History declares the contrary ; and an attentive examination of the strongly marked natural boundaries between many of the Italian States will tend to explain their history. Unless we are prepared to ignore the past, and construct a theory about Italy instead of accepting facts, we must admit that Italian unity is a thing which, except perhaps under the pressure of Roman domination, the world has hitherto never seen. If so, and if nationality is to be pressed as the argument to justify Sardinia, we ask where it is to stop ? The Ionian Islands possibly, if left to themselves, would declare for 'annexation' to Greece. Is England, however, prepared to surrender them ? Is she prepared to give up Gibraltar to Spain, and Malta to Italy ? Nay, foreign nations may ask with what consistency she holds India in fee—that mighty Peninsula of the East, with the Himalayas for its Alps, and the Indian Ocean for its Mediterranean and Adriatic ?

But whatever difference of opinion there may be as to the mode in which the new kingdom of Italy has been formed, there can be amongst ourselves but one wish and hope for its success. Constitutional government in place of tyranny, temperate liberty in place of coercion, and freedom of conscience in place of bigotry and intolerance, are blessings which it must be the ardent desire of Englishmen to see extended amongst the nations of Europe, and the best minds of Italy have long yearned for the enjoyment of them. England has no interest in the maintenance of despotism, and she never

was a party to any Holy Alliance against the liberties of peoples. If it is found possible to form into one strong whole the petty states into which Italy has been divided, and to work out satisfactorily the problem of giving representative institutions to the people without making the national parliament the arena of faction and intrigue, and endangering the monarchy, we shall unfeignedly rejoice in the result. *Within her own limits*, hitherto, Sardinia has done well. From the time when, in 1848, Charles Albert gave his subjects a constitution, and proclaimed *lo Statuto* as the charter of their liberties, the Government has steadily pursued the path of progress and improvement. We watched with interest the struggle between the King and the Pope—so strangely like that which seven centuries ago was fought in this country between Henry II. and Becket, and which Canon Robertson has lately described with admirable impartiality<sup>1</sup>—and we applauded the courage with which the pretensions of the clergy were resisted and they were forced to yield to the supremacy of the law. It was indeed a task of no ordinary difficulty to break through the slavish traditions of the past, and, in spite of the thunders of Rome, to establish independence of the Vatican without ceasing to belong to the great Catholic communion. The domestic policy of Count Cavour has been chiefly modelled on the example of England, where he long resided, and not only studied but wrote upon questions that interest ourselves.<sup>2</sup> From England he learnt the doctrines of free-trade, which have been applied in Piedmont to a considerable extent ; and even in the conduct of business in the Sardinian Chamber, when he wants a precedent or an authority, he takes care to fortify himself with the example of the British Parliament. It is impossible to travel in Piedmont without being struck by the signs of material wealth and happiness which are seen in the execution of public works, the active industry of the population, their contented aspect, and the manly yet respectful independence of their manner. There are, however, many drawbacks, not the least of which are a bigoted priest-party, and an impetuous democratic faction ;

<sup>1</sup> 'Becket : a Biography.' London, 1859. *Sur l'Etat actuel de l'Irlande et son Avenir.*

<sup>2</sup> He wrote, for instance, an essay,

and the success of the Government cannot be considered perfectly secure. Nevertheless it aims at being a good Government, and we think that to some other parts of Italy, if not to the whole, the extension of such a Government would be great gain. Indeed we have heard that a change for the better has already taken place in the Legations, and in other parts of Central Italy annexed to Piedmont; that railways are in course of construction, commerce is springing up, and life and activity are taking the place of apathy and misery.

We must not, however, shut our eyes to the fact that there are immense difficulties in the way, and that many disturbing forces will be at work to mar the success of the experiment. With the exception of England, the Great Powers of Europe will look coldly on the new Italian kingdom. But, independently of danger from without, the internal organisation of the new territories will be no easy task. The first difficulty will be Naples, that kingdom which Victor Emmanuel has so prematurely grasped. Assuming that he is permitted to obtain full possession of the country, it will be necessary to enforce at Naples and throughout Calabria, with stern severity, obedience to the law. In this process, according to the latest accounts, not even a beginning has been made. For some time Victor Emmanuel's possession of the Two Sicilies will be little different from a military occupation; for, to say nothing of the work to be done at Gaëta, a large force, which Sardinia can very ill spare, must be spread over the country, whether in the shape of the regular army or the mobilised battalions of the National Guards of Turin, Milan, Brescia, Genoa, and Florence—to preserve order and put down 'reactionary' attempts. The pressure of the tax-gatherer will be also felt, and men will find out that the blessings of a constitutional government are not to be enjoyed without paying for them. It is doubtful whether the masses were desirous of the changes which have taken place. We observe that Mr. Petre, in his despatch,<sup>1</sup> says that the Neapolitan population at large was tranquil, or, at least, apathetic, even when everything like free speech or thought was instantly put down. But besides all this, when the momentary and by no means universal feeling in favour of Victor Emmanuel has passed away, there will

<sup>1</sup> 'A Century of Despotism,' p. 220.

arise a jealous suspicion that Naples is treated as an appanage of Sardinia, and does not obtain her fair share in the administration of the government. The inhabitants of Calabria are very different from the inhabitants of Tuscany and Piedmont. They are a mixed race, consisting of descendants from Greeks, Normans, Germans, French, and Spaniards, besides the original settlers, and, long accustomed to the rule of a corrupt and despotic government, are little fitted to exercise the rights of freemen or give fair play to the action of representative institutions. They will require for many years firm and energetic control, and it is not difficult to see that many elements of discontent will be rife amongst them. The soldiers of the disbanded regiments of the Royalist army have also been turned adrift in the country, and will cause no little trouble, both as brigands and conspirators. Nor can it be without a sigh that the Neapolitans will see their unrivalled city sink from the dignity of the capital of a kingdom to the position of a provincial town. Moreover, Sicily has always shown the utmost jealousy of being incorporated with Naples, and has in former years struggled for independence. It remains to be seen how far the island will be content to surrender this idea, and to become a mere province of the Italian kingdom. We mention these things not because we have any sympathy with the Government which has fallen, but because they are difficulties which it is foolish to ignore. Our anxious hope is that they may be overcome, and that the more than questionable policy of Victor Emmanuel in the mode in which he has hastened to add so largely to his dominions may not prove hereafter a source of weakness and danger to himself.

But there are other more immediate perils to be met. The King of Italy has to face the questions of Venetia and Rome. When Garibaldi quitted Naples in November and retired to his Patmos at Caprera, he left as a legacy to the new Government the battle-cry of 'a million of men and muskets in March.' The creed of the great mass of the Italians is, that without Rome and Venice there is no Italy, and that to abandon them to their present fate is to be guilty of the worst treason to the cause of nationality. It is clear that no considerations except those of prudence would deter Count Cavour from attacking Venetia; but he knows that if Sardinia is the

first assailant of Austria, she need expect no assistance from France ; and he is too sagacious a politician not to foresee the tremendous risks that would be run in a single-handed contest with a great military Power. Prudence, however, and foresight are not qualities which find favour with the multitude in respect of questions which are embraced by it with the fervour of sentiment and passion ; nor is it likely that the youth of Italy will listen to such counsels when what they believe to be the fated moment has arrived, and Garibaldi calls them to arms. How, then, will the Government be able to restrain them after the example it has set and the encouragement it has given ? The Mazzinian party is actively at work, and it will not be difficult to persuade a fickle and indolent people that they have gained little by revolution but a change of masters, and that the best use they can make of successful insurrection is to establish a republic. But, above all, there is a very great likelihood that Garibaldi himself, if he thinks the King backward in the cause of Italian unity, will join with Mazzini and set up a republic at Naples, when the lamentable tragedy of 1848 is sure to be repeated.

Count Cavour seems to hope for a peaceful solution of the difficulty as regards Venetia from the force and pressure of public opinion. In the speech he delivered in the Chamber of Deputies at Turin, in October, when the *projet de loi* was to authorise the King to accept the annexation of those provinces of Central and Southern Italy in which the population, by universal suffrage, manifested a wish to form part of the constitutional monarchy of Sardinia, he said :—

We are asked, how then will you solve the Venetian question ? In a very simple manner, by changing the opinion of Europe. But how ? The opinion of Europe will change, because the opposition we now meet exists not only in the Governments, but, we must avow it, also in a great part of the population, even liberal, of Europe.

Opinion alone, in the sense in which Count Cavour uses the word, will not be sufficient. Nor is it reasonable to suppose that a voluntary surrender will be made without an equivalent ; and which amongst the nations in Europe is entitled to ask Austria to make the sacrifice ? They have no right to call upon her to give up Venetia, which she holds by the title of treaty and the possession of more than sixty years ; but, if she chooses,

she may sell it ; and this is the scheme which finds favour with many who have no wish to hurt her pride or cripple her power. They say that the province imparts no real strength to her empire under the conditions by which alone it can in future be held, and that it is, in fact, a drain upon her resources and a chronic ulcer in her side. What Austria wants in her present impoverished condition is money, and here she has an admirable opportunity of filling her exhausted coffers. They say that to reconcile the inhabitants of Venice to the yoke of Austria, after the events of the past year, is a moral impossibility, and that nothing but the presence of an enormous military force can prevent disaffection from bursting into revolt. The time seems to have gone by when any amount of concession or reform would be of the least avail ; and so long as Venetia is politically separated from the rest of Italy, it will be a constant source of expense, trouble, and danger to the empire. Certainly, if this be so, no civilized government can desire to hold part of its dominions on such a tenure. On the other hand, it is urged that the possession of Venetia is necessary for the defence of Austria as a German Power, and that the Quadrilateral is that which protects her southern frontier from invasion. To this it might perhaps be replied, that on the south she will always have the mighty barrier of the Rhætian Alps, and that it is as easy to prevent them from being turned by constructing a line of fortresses on the north-east of Venice as it is by the existence of the Quadrilateral on the west. That Austria should be strong, and should present a firm and massive bulwark against Russia on one side and against France on the other, is very important for the peace and safety of Europe, and, naturally, is not much desired by France, who would be glad to see the dissolution of the only Continental Power which can at present oppose any effectual barrier to her encroachments. The *value* of Austria is great, however moderate her *merit* may be. She has lately evinced a desire to conciliate the provinces north of the Alps which own her sway, and we hope that she may yet succeed in retrieving the affections of Hungary, which her enemies are striving to rend from her, and in giving new life and spirit to her German States. But her position is at this moment highly precarious.

We turn now to Rome. In the same speech which we have last quoted of Count Cavour's he carried with him the rapturous applause of the Chamber when he said :—

During the last twelve years the pole star of King Victor Emmanuel has been the principle of national independence. What will this star be with respect to Rome? Our star, gentlemen, will direct us to look upon the Eternal City, upon which five-and-twenty centuries have accumulated all glorious memories, as destined to become the splendid capital of our Italian kingdom.

Very possibly Rome, notwithstanding many disadvantages, may be deemed (as Turin is not) a desirable capital to complete the decorations of the new Italian kingdom; although it may be doubted whether any capital, in the ordinary sense, is desirable at present for a combination of States hitherto very jealous of each other, and each of them accustomed to regard its own capital as the centre of all that is desirable in life. It has been suggested that Bologna, which is in a central position, might be adopted as a sort of Italian Washington for the meeting of the Parliament. But if Rome is indispensable, what is to become of the Pope and his Government? We have seen that the view of the French Emperor was, and perhaps still is, that there should be an *ager Romanus* consecrated to his dominion, within which he should preserve the rights of a temporal prince. But we know that the patrimony of St. Peter will submit to the Pope and the College of Cardinals only so long as it is garrisoned by France. If the French troops were withdrawn, the population of Rome would rise *en masse* and proclaim their union with the rest of Italy. Victor Emmanuel would neither wish nor dare to say to the Romans that they alone of the Italians shall remain subject to a government which they detest, and in the new state of things that has arisen, we hold it to be impossible for Piedmont to guarantee any kind of temporal sovereignty to the Pope. The French Emperor, again, has no imaginable right to mark out the limits within which the struggle for a national existence is there to be confined. He has assumed the part of patron and protector of the Pope—and, availing himself of this character, he acts in Italy as if France were an Italian Power. He says to the advancing wave of constitutional monarchy, 'Hither shalt thou come, but no farther;' and nothing can be more irritating and humiliating to a people than the way



in which the inhabitants of the Roman territory are coerced into obedience by the presence of the French.

In some places, where Piedmontese troops have marched into a town, and been hailed with enthusiastic joy by the inhabitants as their deliverers, they have been obliged to retire to avoid a collision with the advancing French, who have extended their occupation as far as Terracina on the south. Indeed, there is no definite limit to which that occupation is now confined, and at any moment French soldiers may be poured into Umbria, or the Marches, for the purpose of restoring them to the Pope, with as good reason as the territory around Rome is now held by them in subjection to him. But it is not only the Pope who is patronised by the Emperor. The King of Naples confesses his obligations to him. While professing absolute neutrality in the struggle in Southern Italy, Napoleon III. continues to make his presence there felt, and his wishes obeyed. French men-of-war ride at anchor in the harbour of Gaëta, and the Sardinian fleet is not permitted to bombard or even to blockade the fortress by sea, which a Sardinian army has invested, and is attacking by land. We are not therefore surprised at the gratitude expressed by M. Casella, the Minister of Foreign Affairs at Gaëta, in a note addressed by him on the 12th of November to the Neapolitan Ambassadors at foreign Courts. While Russia, Austria, and England stand aloof, France under a Napoleon shows sympathy and friendship to a dynasty of Bourbons! Well might M. Casella tender him thanks for so seasonable an intervention, which stayed the downfall of the monarchy, and gave Francis II. one chance more in the chapter of accidents.

'The Emperor of the French,' he said, 'alone (and it is for us a duty of justice and gratitude to openly acknowledge it) set the generous example of a disposition to put an end to this state of universal apathy. Loyal and monarchical England ventured to reproach him bitterly for it, while the other Cabinets merely allowed him to bear the whole risk of the magnanimous enterprise he contemplated. The sending of the French squadron into the waters of Gaëta, and the fraternal reception given by the soldiers of France to the faithful and valiant remnant of the Royal troop on the Pontifical territory, are facts which will ever remain graven on the heart of the King our Sovereign, and far exceed the protestations of friendship offered to His Majesty by the rest of Europe.'

The truth is, that France has never really favoured, and never can favour, the rise of a great and independent Italian

Kingdom, which should assume its due place in the councils of Europe, and be a formidable rival to France itself, in those waters which she would fain call her own. France has always striven with Spain and Austria for influence and dominion in Italy : she hoped to play this game again in appropriating Tuscany ; and being disappointed in that quarter, she seems to be prolonging the agony of Southern Italy with a view to throw things into confusion and to prevent the new King from consolidating his power. Thereby, peradventure, Naples may, in some way, pass into her hands, or come under a French ruler. She never wants a plausible pretext for interference. At Rome the excuse is the protection of the Pope ; in Syria, the protection of the Christians. But in reality nobody imagines that the motive of French intervention in Italy is to uphold the temporal Government of the Holy See, or that the object of pouring troops into Syria is to protect the Maronites and punish the Druses. Syria lies too close to Turkey and to Egypt not to explain the readiness with which France seizes the opportunity of planting her foot there, and the pertinacity with which she augments her army of occupation. How long will it be before we hear of the revival of the plan of 1841, for placing Syria under the Pasha of Egypt or some other nominee of France ? What means the persistence with which she clings to that which, as regards her, we can only look at in a political aspect, the project of the Suez Canal ? Is it in the interest of peaceful commerce, or with a view to keep a force there under the guise of engineers and workmen, to be employed when the opportunity arises for the occupation of Egypt ? Again, why should France, which has little or no commerce in the Red Sea, or beyond it, be taking up a position within the Straits of Babelmandeb ? Algeria itself is a vast military establishment, scarcely to be called a colony ; costly and burdensome to the nation, but a nursery of soldiers—a means of extending French influence to Tunis and Morocco, and not likely to be relinquished while a dream exists of the possibility of converting the Mediterranean into a French lake. Spain, known to be so deeply influenced by France, has recently been suspected of designs on the Straits, wholly inconsistent with her promise to England, made at the commence-

ment of the late war with Morocco. Already twice since the cession of Savoy and the occupation of the neutralised districts of Chablais and Faucigny, France has had quarrels with Switzerland for real or imaginary affronts to her flag; and we know what uneasiness is felt throughout the Confederation at the proximity of so ambitious and restless a neighbour. Well might the Emperor say to Count Persigny, in his letter of the 25th of July, that 'affairs appeared to him to be complicated, thanks to the mistrust excited everywhere since the war in Italy,' and it was not without reason that he volunteered to attempt an apology for his policy with the view of removing that mistrust. We are struck with the applicability of a description given of France by a traveller two centuries ago to France of the present day. He says, 'It is manifest the chief designs of the King or France are by a constant war, not only to keep the unquiet spirit of his own people in action abroad, and, by being still armed, to awe the commonalty and draw what treasures he pleases from them, but to make conquests upon the House of Austria as time and accidents afford best opportunities; but it is conceived his principal aim is at Flanders and some parts of Germany.'<sup>1</sup>

No doubt the Emperor of the French is our ally, and has lately given tokens of his friendship, not only in committing his fair Empress to our gallantry, but in abolishing that passport system which is so detested in England and so injurious to French interests. No doubt also he is willing to be on good terms with his own people, for he has initiated institutions by which, if really carried into effect, he and they may at least hear each other's voices, and have some chance of understanding each other. But, nevertheless, the mistrust which he complains of has not died away. We hear of renewed warlike preparations in France—more extensive, it is said, than in 1859—of a most formidable revolutionary combination in Hungary—of Sardinian ships laden with munitions of war for the Magyars stopped at the mouth of the Danube, but not until supplies of arms and artillery had been introduced into the countries lying on the banks of that river.

But to return to the Kingdom of Italy: will this great

<sup>1</sup> Sir Thomas Hanmer's 'Account of France in 1648.'

name become a reality, and 'Insuperata floruit' be written in its history, or will the dismal saying be verified, that 'the dry wood will not sprout?' What are the forces that have caused its rise? Has France made it, and can France undo it, or is there, at length, after so tame and so protracted a submission to foreign masters, a revival of the ancient hardihood that made Rome the mistress of Italy and of the world? We know that Piedmont is being drained of men, but we do not hear of any great levies in other parts of Italy. And if the men of Italy have the right qualities, is there any common ground upon which they can meet, and, with all the wisdom and resolution of which they are capable, take counsel together for the whole of Italy? Will that which has never existed as a really homogeneous and consentient nation become such now? Piedmont, we fear, will look down upon Naples, and Naples consider the Piedmontese as foreign invaders: indeed, the Government of Naples (even if France should cease to intervene at Gaëta) will be the great difficulty. Lombardy, again, will grudge the heavy taxes of Piedmont. and Tuscany may be disposed to look back upon the quiet days of the Grand Dukes. If all these states can be permanently connected as one nation, in that nation will many elements of greatness be combined. It will have the fine genius of the Italians, endless physical advantages of climate, soil, and situation, and the ennobling memory of great deeds. But the process of amalgamation, to be successful, must be conducted in a cautious and conservative spirit; not by insisting upon centralisation and uniformity in all things—which is opposed to the spirit and habits of the Italian people, and hostile to true liberty everywhere—but by maintaining and extending the admirable municipal institutions which most of the Italian States already possess, and of which they are justly proud, and by taking care that the hand of the government shall not be too much felt in details. Everything that is done by a government for a people which the people are ready and willing to do for themselves, hurts their self-love, injures their capacity for exertion, and tends to alienate them from the ruling power. There are certain functions which Piedmont can best perform for Italy. The army and the diplomacy and the national policy of Italy must be governed

and conducted by the central authority, but all the domestic institutions of the different States need not be mechanically remodelled after the fashion of Piedmont. The more haste that is made to effect a fusion, the less chance there is of a firm and lasting combination. Such a combination of the different Italian States, if not wholly impossible, can only be accomplished very gradually, and by the most patient and skilful statesmanship. For the happiness of the human race we wish that such statesmanship may be found. Our hopes would be stronger than they are, if recent events would permit us to attribute to the new rulers of Italy that high sense of honour and of public morality, which affords a better qualification for command than the most consummate adroitness in council or courage in the field. Assuredly our hopes will become faint indeed, if the new nation, instead of entering the circle of the European Powers in peace and goodwill, shall employ itself in extending agitation and conspiracy, and strive, in subservience to the ambition of France, to effect its own immediate object to kindling a general war, from which, whoever may be her new masters, Italy will certainly not emerge independent. We earnestly trust that those to whom the safety of England is committed will henceforth carefully avoid compromising the name and credit of this country, by giving a sanction to enterprises with which we have no concern, and the ultimate results of which it is impossible to foresee; and that our course will be one of even and impartial amity towards all who desire our friendship, but of firm and vigilant defensive preparation against those who may seek to injure us, either by direct attack or by breaking up the great European system, which, while it was respected, secured so many years of peace and prosperity to all.<sup>1</sup>

<sup>1</sup> It will be observed that in this article, written in 1861, I took in some respects too gloomy a view of the prospects of Italian unity. Now, in 1874,

I can only express my joy that my forebodings have been gloriously falsified by the event.

THE JUDGES OF ENGLAND.<sup>1</sup>

'Quarterly Review,' 1866.

WE congratulate Mr. Foss on the completion of his long and arduous task; which he has performed with the accuracy of an historian and the conscientious industry of an antiquary. He has produced a work which is a biographical dictionary in itself, containing not less than 1589 lives. We confess that when we first saw the announcement of his intention to write the lives of all the Judges, we had some misgivings as to the success of his plan. Lord Chancellors and Chief Justices are men who occupy so prominent a position that their career is often interwoven with the history of their country; and some of them, like Glanville, Bacon, Coke, Clarendon, Hale, Somers, Holt, Hardwicke, Mansfield, Erskine, Eldon, have left behind them an imperishable name. But of the puisnes the great mass were mere lawyers, whose lives, even if there were materials for writing them, must be as dull and uneventful as those of town-clerks or aldermen. What could be said that would be worth the telling? Immersed in the routine of their daily duties—oracles of the common law, but untinged by scholarship and unilluminated by genius—they impressed no mark on their day and generation, and passed noiselessly away; with nothing to commemorate their existence except perhaps a pompous epitaph in some village church, which attests how learned a lawyer and how forgotten

<sup>1</sup> 1. *The Judges of England; with Miscellaneous Notices connected with the Courts at Westminster, from the time of the Conquest to the Present Time.* By Edward Foss, F.S.A., of the Inner Temple. 9 vols. 8vo. London, 1864.

2. *Tabulæ Curiales; or, Tables of the Superior Courts of Westminster Hall. Showing the Judges who sat in them from 1066 to 1864; with the Attorney*

*and Solicitor Generals of each reign from the Institution of those Offices. To which is prefixed an Alphabetical List of all the Judges during the same period, distinguishing the Reigns in which they flourished, and the Courts in which they sat.* By Edward Foss, F.S.A., Author of 'The Judges of England.' London, 1864.

an individual sleeps below. Still, however, there is a natural curiosity to know all that can be told of our fellow men. It has been said that no man's life is so insignificant as not to be interesting in some degree to others; and we agree with Mr. Foss, when, speaking of the description given by Fortescue, in the reign of Henry VI., of the mode of appointing the Judges, he says :—

When we recollect that this is not the description of a new institution, but one which at the time it was written had already existed more than two centuries; and when we see, after the lapse of an additional four hundred years, that the old practice prevails at the present hour without any essential alteration; it is impossible not to be interested in the account thus given by an eye-witness; and the reader can scarcely be chargeable with romantic feelings if he acknowledges a degree of veneration towards a body with so ancient a pedigree, and the learning, integrity, and firmness of which have been rendered even brighter and more apparent by contrast with the failings of a few of its members, who at intervals during the course of ages have disgraced their position.

But the difficulty was how to get the materials for an account of these ordinary men, when the records even of the greatest events that happened during the earlier reigns of the Norman and Plantagenet Kings are so scanty. And a great number of the old Judges no doubt must be and are dismissed with the briefest and driest mention of their names and the offices they held, with the dates of their appointment. But even with regard to these, it is interesting to see the mode in which Mr. Foss has been able to fix and verify dates. Nearly one hundred and fifty charters are collected in the *Monasticon*, to which the names of Chancellors are attached. 'Some of these,' says Mr. Foss, 'are dated; and the dates of the others may be discovered with sufficient nearness from the witnesses who attest them; so that a diligent inquirer, even without other aid, may make a considerable advance in ascertaining the order of their succession, and in connection with other known facts, almost the date of their appointments.'

It must indeed have been a task of no ordinary difficulty to obtain correct information as to the career of men so many of whom are now utterly unknown. But we are bound to say that Mr. Foss seems to have left no stone unturned in his patient and exhaustive search. Every possible source of information has been laid under contribution. Charters and deeds, and rolls and fines, family archives and monuments and tombstones, have all been ransacked by him with as much

diligence as if he were investigating great problems of history ; and sometimes we are disposed to regret that such industry and acuteness have been lavished upon subjects where the value of the result bears so little proportion to the zeal of the inquiry. But whatever is worth doing is worth doing well ; and accuracy in small matters is a guarantee for accuracy in things of greater moment. The man who hunts out a date in the nooks and corners of obscure records and mouldering parchments with as much eagerness as a Dutch burgomaster, according to Sydney Smith, hunts out a rat in a dyke lest it should flood a province, is not likely to take facts on trust, and make scissors and paste supply the place of a critical examination of original authorities.

The plan adopted is, we think, judicious and convenient, Each reign is kept separate and distinct, and the lives of the Judges who flourished under each monarch are arranged alphabetically ; but where Judges sat on the bench during more than one reign, their lives are given in the last ; while the office they severally held, and the year of their appointment, appear in due order in each reign of their career. To the commencement of each reign there is prefixed a 'survey of the reign,' containing a description of the nature and progress of each court, and of the officers of the various departments, with short accounts of the Inns of Court and Chancery, and their origin ; of the serjeants and other advocates ; and of the reporters and legal writers ; 'adding whatever appeared interesting in the history of the time as connected with the judicature of the country, and collecting such illustrative anecdotes of Westminster Hall as seemed to demand a place.' Mr. Foss modestly disclaims any attempt to record the history of the law itself, and pleads his incapacity for such a task : but we think he has underrated his powers. His work contains a great deal of valuable matter, which elucidates the history of the law ; and he pursues the inquiries in such an intelligent and searching spirit, with such a resolute determination to spare no trouble in arriving at the truth, and with such a competent knowledge of the subject, that we believe few writers are better qualified to trace the progress of English law through all its mazy channels from the Norman Conquest to the present day.



Before we deal with the Lives, properly so called, we will say a few words, in no very definite order, upon some of what may be called the antiquarian questions of the law, which Mr. Foss has discussed with great learning and acuteness.

He shows, with every appearance of probability, that there were originally only three Law Terms—those of Hilary, Easter, and Trinity; and that which we now call Michaelmas Term was altogether excluded as a distinct and separate division, the whole of it being comprehended in the third or Trinity term. Amongst other proofs we have this: that the *Curia Regis*, as we know, followed the King's movements, and was held when he happened to hold his Court, or, as it was called, 'wore his Crown.' Now, there were three special periods of the year in which William the Conqueror and his immediate successors 'wore their Crown,' namely, at Christmas, Easter, and Whitsuntide, and never at or about the time of Michaelmas. No means now exist for determining the precise period when the change took place; but Mr. Foss thinks that it was dictated by the nature of the agricultural employments of the people:—

At some period between May 31 and November 28, it would be necessary to relieve the people from their attendance for the purpose of their collecting the hay and corn harvests; and there can be little doubt that there was a regular adjournment of the Court while they were thus employed in getting in the fruits of the earth. Such an adjournment would be attended with little inconvenience to the suitors, and it is not likely that there was in those times sufficient business to occupy so long a period as that which had been appropriated to legal affairs.

Another reason for adjourning to Michaelmas was that the sheriffs of the several counties who were collectors of the royal rents, and the other debtors of the Crown, were called upon to give in their accounts half-yearly, at Easter and Michaelmas, in that branch of the *Curia Regis* called the *Scaccarium* or *Exchequer*, where the same Judges and officers sat on these occasions of accounting as in the principal Court.

The three Courts of King's Bench, Exchequer, and Common Pleas, had been formed out of the old *Curia Regis* before the end of the reign of Henry III., but for some time afterwards the precise duties of each were not clearly defined. And even under the reign of Edward I. it is not in all cases possible to distinguish to which Court the different Judges belong. There is clear evidence that common pleas still con-

tinued to be heard in the Exchequer, notwithstanding repeated prohibitions by statutes and by royal ordinances. The title of Chief Justice of the Common Pleas was, according to Dugdale, first used in the reign of Henry III. when Gilbert de Preston filled the office ; and Walter de Norwich who was appointed a Baron of the Exchequer in 1311; in the reign of Edward II., seems to have been the first who was styled Chief Baron, although Dugdale applies the term to William de Carlton in the 31st year of Edward I., and some authors so designate Adam de Stratton, who was disgraced and fined a few years earlier. Mr. Foss, however, shows that these are mistakes.

The time when the division of the Courts of Common Law first took place, a subject on which legal antiquaries have long differed, is discussed by Mr. Foss with great care and ability ; but we have not space for his arguments, and can only state the conclusions at which he arrives. He dissents from the opinion of Sir Edward Coke, that the Common Pleas, as a separate Court, was erected before Magna Carta, and holds, with Lord Bacon, that the Court of Common Pleas was not divided from the principal Court until after the Charter of John.

The progress with regard to civil suits seems to have been this. At the time of the Conquest the ordinary and regular place for their trial was the Sheriff's Court. They were there allowed, on the payment of a fine, to be removed into the Curia Regis ; but this was a privilege which at first could only be claimed by a few. Gradually, however, the advantages of having Judges who had no local prejudices was felt, and the practice became common. The business of the Curia Regis consequently increased so much that in the first place itinera or circuits were appointed to relieve it, to try common pleas, as well as pleas of the Crown in the counties where the differences arose ; and next, it was found necessary to nominate legally-educated men to take those duties at the principal Court, which, from other occupations and the increased complexity of the proceedings, the barons, who were the original administrators of the law in the Curia Regis, were no longer competent to perform.

Up to the 36th year of Edward III. the pleadings in the Courts were carried on in Norman-French. But the people naturally complained of this. They said that their rights and liberties and lives were subject to laws which they could not understand ; and they knew not what was said either for or against them ' by their serjeants or other pleaders.' A statute was therefore passed, in 1362, which enacted that all pleas

should be pleaded, defended, debated, and judged in the English tongue, but that they should be entered and enrolled in Latin. Nothing, indeed, could be more barbarous than the language used in the Courts of Law. In the preface to the 'Year Books'<sup>1</sup> of Edward I., which have been ably edited by Mr. Horwood as part of the series published under the direction of the Master of the Rolls, the editor says: 'That the Norman-French was not the mother tongue of the pleaders will (it is thought) be the conclusion of the reader. An examination of their phrases seems to show that they thought in English, and clothed English ideas and sentences with foreign words.' And the practice of jumbling together French, Latin, and English, in pleadings and indictments, continued until a comparatively recent period. During the Protectorate of Cromwell an Act was passed for the introduction of the English language into the pleadings, but at the Restoration, although all proceedings in private causes which had been commenced since the death of Charles I. were legalised, that Act was limited in duration to August 1, 1660. After that period, as Mr. Foss observes, 'the absurd use of "an unknown tongue" was renewed, and continued to be employed for seventy years longer, till in the reign of George II. English was again substituted by an Act of the Legislature, and litigants were permitted to understand the allegations for and against them.' To give an idea of the jargon of legal language in old times we will quote the following from the marginal notes of Chief Justice Treby to 'Dyer's Reports':—

Richardson C. B. de C. B. at Assizes at Salisbury in summer 1631 fuit assault per Prisoner la condamne pur Felony ;—que puis son condemnation ject un Brickbat a le dit Justice, que narrowly mist. Et pur ceo immediately fuit Indictment drawn pur Noy envers le Prisoner, et son dexter manus ampute et fixe al Gibbet sur que luy mesme immediatement hange in presence de Court.

The Chief Justiciary, or Justiciarius Angliæ, was the chief officer next the King in the Curia Regis, 'In the Sovereign's absence,' says Mr. Foss, 'he presided there in all criminal and civil causes, and also in the Exchequer, having by virtue of his office the principal management of the royal revenue ; and

<sup>1</sup> We are glad to see that the evil of the multifarious contemporaneous reports with which law and lawyers were tormented is likely to be got rid of, and

a new and better series of them established, under the auspices of the Council of Law Reporting.

in addition to this, the entire government of the State was entrusted to him, as Regent, when the King was absent from the realm. After a period of two hundred years, this officer was discontinued in the reign of Henry III., when his principal judicial duties were transferred to the Chief Justice of the King's Bench.' The title of Chief Justice of the King's Bench was not given to the head of the King's Court until 1268, in the 52nd year of Henry III., when a salary of one hundred marks was assigned to the office, although a yearly allowance of one thousand marks had been formerly granted to the Chief Justiciaries.

All who have attended the Courts at Westminster must have observed the massive gold chain worn round the neck by each of the chiefs of those Courts, and perhaps remarked the letters S.S., which form its distinctive ornament. The meaning and origin of these letters are lost in obscurity, and antiquaries have puzzled their brains in vain to give a satisfactory explanation. Indeed it has been doubted whether they are letters at all, or merely links of the chain accidentally formed in that shape. We will not go through the various conjectures which have been hazarded on the subject, but content ourselves with saying that we are by no means satisfied with that of Mr. Foss, who is inclined to adopt the opinion that the S. stands for *Souvenez*, and has come down to us from the old days of romance when emblems were placed on collars to express some sentiment, or as the abbreviation of a motto. Mr. Foss declares that no authentic trace of the S.S. chain has been found on the monument of any Chief Justice until the reign of Edward VI. That of the present learned Chief Justice of the Common Pleas is said to have been worn by Sir Edward Coke. Lord Ellenborough had the one which adorned the neck of Sir Matthew Hale, but kept it on his retirement in 1818. Lord Denman gave his to the Corporation of Derby, 'whose Mayors will thus in future be decorated with the livery collar of the Earl who took his title from that town, and who as Henry IV. first attached it as a mark of honour to the members of the royal household.' Lord Campbell bought and kept his chain; and the present Lord Chief Justice of England wears a new one purchased by himself.

The Chancellor, Cancellarius Regis, was another officer of

the Curia Regis, but at first his rank was very inferior to that which he afterwards attained. He probably acted as a kind of secretary, and this rendered it almost necessary that he should be an ecclesiastic, for few except the clergy in those days could read or write. The Barons of the realm were like the children of the Black Douglas :

Thanks to St. Bothan, son of mine,  
Save Gawain, ne'er could pen a line.

It was his province to prepare the various writs and precepts that issued out of the Curia Regis, and to supervise the royal charters and grants to which the King's seal was attached. The seal itself was kept in his custody, or at least under his direction. The earliest example of this was thought to be a 'Charter of Confirmation to the Abbey of Westminster, quoted by Dugdale, and preserved in the British Museum with the seal of the Conqueror, and the words, *Mauritius Regis Cancellarius relegit et sigillavit* attached. But Mr. Foss says that this charter is now declared to be a forgery. The allowance to the Chancellor was originally five shillings a day ; a simnel (a sort of sweet bread or cake) and two seasoned simnels ; one sextary of clear wine, and one sextary of household wine ; one large candle, and forty pieces of candle.

We have no information as to the mode in which a mere clerk or secretary began to exercise judicial functions until at last he became a High Officer of State, but most probably questions would arise before him as to the form of the writs which he was called upon to issue, and the grants and charters he had to prepare, so that he gradually assumed the functions of a judge. In the prologue to 'The Life of Saint Thomas (Becket), Archbishop and Martyr,' by William Fitz-Stephen, the biographer informs us that 'he was one of Becket's clerks and an inmate in his family, and as by express invitation I was called to his service, I became a remembrancer in his Chancery, a sub-deacon in his chapel whenever he celebrated, *and when he sat to hear and determine causes*, a reader of the bills and petitions ; and sometimes when he was pleased to order it, I even performed the office of an advocate.' But it would not be right to infer from this that the Chancellor had at that time any separate jurisdiction. The place of business

which is styled *cancellaria* was not a court, but an *office* or *bureau*; and the description of Becket as a judge relates to the time of his archiepiscopate. This appears from the previous mention of Fitz-Stephen's assisting at his celebration of mass (for the points of connexion with his master are mentioned in the order of time, and it was only on the day before his consecration as archbishop that Becket received the priestly ordination which qualified him to celebrate); and also from the biographer's speaking of himself as pleading causes, which clergymen were forbidden to do in any other than ecclesiastical courts. On the other hand, the statement of some writers that Becket was much employed 'in causis perorandis et decidendis' (Roger, in Migne, cxc. 61; Joh. Sarisb. *ib.* 147; Wendover, ii. 293) belongs to a time before his appointment to the chancellorship—while he was yet a member of Theobald's household, and took part in the proceedings of the archiepiscopal court. (And see Lord Campbell's 'Lives of Chancellors,' ed. 3, i. 4; Foss, i. 14.) The title of Lord Chancellor seems to have been first introduced in the reign of Edward II., he having been previously called Cancellarius Regis: and on two occasions he is styled Angliæ Cancellarius. But he still remained the head of the King's Chapel, 'Chef de la Chapele nostre Seignour le Roy.'

When the King went abroad, as was so often the case while the English Crown had dominions in France, he used to take the Great Seal with him, and another seal was given to the Chancellor to use until the King's return. Thus, when Edward I. went to Flanders, in 1297, the Chancellor delivered to him the Great Seal at Winchelsea, in a ship called the 'Cog<sup>1</sup> Edward,' and Prince Edward, who acted as Regent during his father's absence, gave the Chancellor another seal, which was restored to the King 'at his bedside' on his return. When the office of Chancellor was vacant, it seems to have been the custom to deposit the seal in the custody of persons selected by the King. In 1302, in the reign of Edward I., it was delivered to three officers, to be kept under their seals until the King should provide himself with a Chancellor. One of these was Adam de Osgodby, the Master or Keeper of the Rolls, which is the first time that that officer was *eo*

<sup>1</sup> Cockboat.

*nomine* appointed to act in such a capacity.<sup>1</sup> Former writers have assumed that the persons with whom the seal was thus deposited were what are technically called Keepers of the Great Seal. But Mr. Foss satisfactorily proves that some of them were merely keepers or other officers of the Wardrobe, the usual place of custody for the seal, and that they had no power to use it in any way. The others were clerks in the Chancery, who were on most of these occasions entrusted with the ministerial duties of the office.

In the reign of Edward IV., there were *two* Chancellors acting at the same time—Alcock, Bishop of Rochester, and Rotheram, Bishop of Lincoln—which Mr. Foss accounts for by the preparations the King was making for the invasion of France, where he wished a Chancellor to accompany him. The custom had been on such occasions to appoint a temporary Keeper of the Seal, 'but now, perhaps because Bishop Alcock was a favourite, whom the King wished to honour with a higher designation, the unusual course was adopted of appointing him Chancellor, without superseding Bishop Rotheram, and several bills are addressed to him with that title in the Rolls of Court.'

Mr. Foss revels in the various descriptions of the Great Seal at different times, and the increasing splendour of the bag in which it was carried, until it culminated in its present costly embroidery, which, it seems, was due to the 'ostentatious magnificence' of Cardinal Wolsey. He hints, however, a doubt whether the gilt mace carried before the Chancellor—the origin of which he is inclined to attribute to the proud churchman's love of processional pageantry—was carried before him as chancellor, or solely as legate and cardinal, and we confess we are unable to solve the important problem. We may here mention that the Great Seal is not in truth carried about in these days in the bag or purse in which it is theoretically supposed to be kept. In fact, it is never put into the purse except on two occasions, viz. when it is re-

<sup>1</sup> The title of '*Custos Rotulorum Cancellariæ domini Regis*' is attached for the first time to the name of John de Langton, in an entry in the Patent Roll of 14 Edward I., 1286; but Mr. Foss shows that he was not the first

person who held that office. As in the appointment of Adam de Osgodby, in 1295, the custody of the Rolls was given to him in the same manner, '*Quo alii custodes eam habere consueverunt temporibus retroactis.*'

ceived from the Queen, and when it is delivered up to her. At other times the Great Seal reposes in a small plain green leather box, the key of which the Lord Chancellor alone has, and the Great Seal should always be where he is. The quantity of wax now required for one year's consumption in sealing Patents for inventions alone is upwards of 1 ton 2 cwts.

Although the term Baron of the Exchequer was used as early as the reign of Henry I., it was then applied solely to the barons of the realm, who also performed the functions of judges. It was not until the eighteenth year of Henry III. that this title was given to private individuals selected for that special duty. But it seems that even at a later period, the Chief Baron was not necessarily a lawyer, for the statute of Nisi Prius, 14 Edward III., c. 16, enacts 'that if it happen that none of the Justices of the one Bench nor the other come into the country, then the Nisi Prius shall be granted before the Chief Baron of the Exchequer, *if he be a man of the law.*'

In the fifth year of Richard II., the Commons petitioned the Crown that in future no one should be made a Baron of the Exchequer unless he were a man well learned in the common law, or otherwise in the legal courses and usages of the Exchequer. But this prayer seems to have been disregarded. At all events, the position of the puisne barons was greatly inferior to that of the other judges. Even up to the reign of Elizabeth, they were not previously made serjeants; they were not included in the summonses to Parliament, nor were they privileged like the judges to have chaplains. Robert Shute, who was made a Baron of the Exchequer in 1579, was the first serjeant who was raised to the Bench as a puisne baron, and in his patent it is ordered that 'he shall be reputed to be of the same order, rank, estimation, dignity, and pre-eminence, to all intents and purposes, as any puisne judge of either of the two other Courts.'

As the proceedings in the Curia Regis were carried on in a foreign tongue, either Norman, French, or Latin, the parties engaged in causes were obliged to employ persons who were familiar with the language of the court. These were called *conteurs*, or in Latin *narratores*, and none others were allowed to be heard. Their office was a 'Serjeanty' and they were



appointed by a royal mandate, or writ, the form of which was continued when the Court of Common Pleas was established, and has remained substantially the same to the present day in the case of all barristers who are called to the degree of the coif. The origin of this professional badge Mr. Foss states to be as follows :—

Few men in those ages were learned in the laws except the clergy, who were bound by their order to shave their heads. The serjeant-counters being originally part of this body were, of course, obliged to follow the rule: but for ‘decency and comeliness,’ or rather perhaps, for warmth, were by degrees allowed to cover their baldness with a wig. This was at first a thin hair cover, gathered together in the form of a skull or helmet, the material being afterwards changed into white silk, and the form eventually into the black patch at the top of the forensic wig, which is the distinguishing mark of the degree.

Some of these ancient barristers seem to have set a bad example, if we may judge from the following anecdotes. In the fifty-second year of Henry III., as Robert de Fulham, ‘Justice of the Jews, was going to Westminster Hall, Robert de Colevill, “narrator de Banco,” laid violent hands on him, taking him by the breast. The contumacious barrister was brought before the Barons of the Exchequer and “Justices of the Bench then sitting in the Exchequer,” with his tunic ungirt, and his head uncovered, and making a lowly submission to the pleasure of the court, his offence was pardoned, and he was admitted *ad osculum*, “the kiss of peace.”’

In 34 Edward I., Roger de Hegham, a Baron of the Exchequer, complained that, having pronounced a judgment against William de Brewes, the said William contemptuously mounted the bar, and, with gross and bitter words, called in question the said judgment, and afterwards insulted the Judge as he was passing from the Court. Whereupon the King, after alluding to his having dismissed his son, Edward Prince of Wales, from his house for nearly half a year for some outrage towards the King’s officers, ordered that William de Brewes, with his body ungirt, his head uncovered, and his coif laid aside, should go from the King’s Bench at Westminster through the middle of the Hall, when the Court was full, to the Exchequer, and there ask Roger de Hegham’s pardon and apologise for his offence to him; and that for the contempt done to the King and his Court, he should be committed to the Tower, there to remain at the will of the King.

The clergy, of course, were the persons most likely to possess the qualifications for this office, and some of them were noted for their knowledge of the law. In the great cause in the reign of the Conqueror between Lanfranc, Archbishop of Canterbury, and the King’s brother, Odo, Bishop of Bayeux, respecting some manors belonging to the Archbishopric which Odo had seized, and which was tried before Geoffrey, Bishop

of Coustances, at a shiremote on Penendon Heath, Agelric, the venerable Bishop of Chichester, was by the King's command brought to the Heath in a chariot to instruct the judges in the ancient laws and customs of the realm.

Towards the end of the reign of Edward I. another itinerant Court was erected, the judges of which were called Justices of Trailbaston, for the origin of which term various explanations have been offered. Nicolas Trivet in his 'Annals' says, that the name was given them by the people, because it means *trahe baculum*, which Holinshed translates 'traile or draw the staff.' Hence it has been supposed that these justices were so styled *from trailing the staff of justice*. Sir Edward Coke, who was about the worst etymologist in the world, declares that they were so called from the rapidity of their proceedings, which equalled that of a blow with a bâton—a singular exception to the tardy course of English law. Mr. Foss discards all these explanations, and says that there is little doubt that the word *trailbaston* applies originally to the offence or the offenders, and not to the judges—although the latter being assigned to try them were subsequently so denominated. It appears that in Edward's reign, to quote the words of the Commission appointing Justices of Trailbaston, 'many mal-factors and disturbers of the peace, perpetrating homicides, depredations, fires, and other wrongs, both by day and night, wander about in woods, parks, and divers other places, in the counties named; and these are harboured, to the great danger of those travelling through those parts and resident in them, and in the King's contempt, and the manifest breach of his peace.' No allusion is made to the arms these sturdy rogues bore, but they are said to 'beat, wound, ill-treat, and kill;' and it has been conjectured that they carried no other weapon than a cudgel or club, and thus obtained their name. In an extract quoted by Mr. Foss from Langloft's 'Chronicle' they are thus mentioned:—

Traylbastons sunt nommez de cel retenaunce;  
 En fayres et marchez se proferent fere convenaunce,  
 Par tres sous ou iiii; ou par la valiaunce,  
 Batre un prodhomme ke unk fist nosaunce  
 A cors cristiene, par nuli temoygnaunce.<sup>1</sup>

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<sup>1</sup> Mr. Wright, in his 'Political Songs,' gives the following translation of the passage:—'This Company called trailebastons; they offer to make

And in an old contemporary song, which professes to be written by an outlaw who had fled to the woods to escape the cruelty of the judges, and which the late Mr. Lockhart modernized, the author attacks two of the justices in the following savage lines:—

I'd teach them well this noble game of trailbaston to know,  
On every chine I'd stamp the same, and every nape also ;  
On every inch in all their frames I'd make my cudgel go ;  
To lop their tongue I'd think no shame, not yet their lips to sew.

There is a curious petition to the Parliament of 35 Edward I. alleging that persons who had been convicted before the Justices of Trailbaston for conspiracies and other misdemeanours, and had paid their fines for them, got themselves afterwards placed on inquisitions and juries to confound those who had honestly indicted them. An order was therefore given forbidding this in future. One clause of the oath taken by each of the Justices of Trailbaston was that 'he shall take no gift of any one for pleading, or other thing which he may have to do before him, except it be to eat and drink *à la journée*.'

It appears, then, that 'writs of Trailbaston' were in the nature of special commissions issued for a temporary purpose—as in the case of the Rebecca riots in Wales within our own memory—and they continued to be issued at intervals until the middle of the reign of Richard II., when they finally ceased. The appointment in fact, of Justices Itinerant, as distinct from the regular judges, fell into disuse after the passing of the statutes of Nisi Prius in 13 Edward I. and those of gaol delivery, and persons appealed in 27 and 28 Edward I. Stow, whom Mr. Foss quotes, tells us that in the year 1294, and at other times, the Justices Itinerant sat outside of London at the stone cross in the High Street near the Strand, over against the Bishop of Coventry's house, and sometimes within the house itself.

When was the custom with which we are so familiar, of Judges going circuit, first introduced? Mr. Foss says that there is a reasonable presumption for fixing the first appointment of itinerant justices in the reign of Henry I., although the precise year cannot be ascertained. An ancient roll in the

conventions at fairs and markets for three or four shillings; or, merely to show their courage, to beat a good man

who never did hurt to any Christian body by the testimony of no one.'

Exchequer, of the date 31 Henry I. (A.D. 1130), shows that they had previously to that period been appointed, and had travelled their circuits. During the lawless reign of Stephen they appear to have been discontinued, as might naturally be expected in such a time of strife and disorder. Hallam says ('Const. Hist.,' ii. 337, 1860), 'Because few, comparatively speaking, could have recourse to so distant a tribunal as that of the King's Court, and perhaps also on account of the attachment which the English felt to their ancient right of trial by the neighbouring freeholders, Henry II. established itinerant justices to decide civil and criminal pleas within each county.' This excellent institution is referred by some to the 22nd year of that prince, but Maddox traces it several years higher. But long after the separation of the three Courts, the King's Bench was an itinerant Court and followed the royal movements, and in the 38th year of Edward III. the Commons presented a petition to the King complaining that, as the Bench is wandering from county to county, the people are made to come before the justices in each county, to their great distraction and cost, and that many are defeated for want of wise council, whereof they can find none because of the uncertainty of the place. They pray, therefore, that the Bench, may be established in Westminster or York. The King, however, refused to give up his prerogative to order his Bench to meet wherever he pleased. And even the Common Pleas, in direct violation of Magna Carta, was not held in one fixed locality, for we find in the 'Year-Book' of 8 Edward III. a Counsel saying, 'The Common Bench is not in a certain place, but sometimes here (in York), and at other times in London, changed according to the King's will.' But it seems from a petition of the Commons a few years later, that the changes were confined to Westminster and York.

It is not quite clear when a Law Officer of the Crown first assumed or was called by the title of Attorney-General. Before the sixth year of Edward I. two instances occur where the designation 'Attornatus Regis' is employed without any name being given. The ordinary mode, however, of describing the officer was *qui sequitur pro rege*. But Mr. Foss says that in most years, regularly under the reign of Edward I., two were regularly employed 'who may perhaps be supposed

to answer to our modern officers the Attorney- and Solicitor-General.' That there was an established advocate on the part of the King appears probable from the fact that, in the last year of Edward's reign, John de Mutford was called before the Treasurer and Barons of the Exchequer to inform them of the King's right in the matter of a petition then presented. The first name to which the title of 'Attornatus Regis' is attached is that of William Boneville in 1277, but a few years before several cases are recorded in which Lawrence de Broke is described as one who 'sequitur pro rege,' and he may, perhaps, be considered as the first known legal progenitor of the long line of distinguished men who have filled the office of Attorney-General.

It has often been said that the Judges owe their appointments 'quamdiu se bene gesserint,' instead of 'durante bene placito,' to George III. ; but this is quite a mistake.<sup>1</sup> So early as the reign of Charles I., if not earlier, the patent was often made out in the form of 'good behaviour.' Thus when the King wished to deprive Chief Baron Walter of his office for some unknown cause of displeasure, the spirited Judge refused to submit, alleging that by his patent he held his post 'quamdiu se bene gesserit,' and he demanded a *scire facias* to show whether he did 'bene se gerere' or not ; and the King did not insist on his dismissal, but contented himself with forbidding him to sit in court. But a few years afterwards Sir Humphrey Davenport was appointed in his place, and in that case the patent was made out in the form 'durante bene placito.' And in the reign of Charles II. these words were, we believe almost universally introduced to make the Judges subservient to the Crown. At the time of the Revolution, in the debates previous to the Declaration of Rights, several speakers insisted on making the commissions of the Judges run *quamdiu se bene gesserint*. 'But,' says Mr. Hallam, 'this was omitted in the hasty and imperfect Bill of Rights. The commissions, however, of William's Judges ran *quamdiu se bene gesserint*. But the King gave an unfortunate instance of his very injudicious tenacity of bad prerogatives

<sup>1</sup> An attempt was made in the reign of Edward IV. to transfer the power of paying the salaries of the Judges to the Parliament ; but the King refused to

assent to the proposal, declaring that 'it is necessary that they be truly paid, but that it be at the King's pleasure.'

in refusing his assent, in 1692, to a Bill that passed both Houses for establishing the independence of the Judges by law and confirming their salaries. We owe this important provision to the Act of Settlement, not, as ignorance and adulation have perpetually asserted, to his late Majesty George III.'

The fees paid to Council in old times were not large, even when allowance is made for the change in the value of money. In 1500 three Counsel in Serjeant's Inn received 3*s.* 1*d.* each from the Mayor and Aldermen of Canterbury, for their advice on the affairs of that city. They were sometimes *treated* by their clients. Thus the following items occur in a bill of costs in the reign of Edward III :—

	<i>s.</i>	<i>d.</i>
For a breakfast at Westminster, spent on our Counsel . . . .	1	6
To another time for boat-hire in and out and a breakfast for two days.	1	6

When counsel were retained for the Assizes, a regular indenture was sometimes executed.

Mr. Foss does not mention the fact, but it was the custom for the Sheriff of Northumberland to send an escort with the Judges when they rode from Newcastle to Carlisle across the wild border country, and a regular receipt was given by the Sheriff of Cumberland when their bodies were safely delivered to him. To pay the expenses of this the Mayor and Aldermen of Newcastle used to make the Judges a present of a sum of money, and this custom was kept up until a very recent period. We believe that Lord Denman was the last who received it in the shape of a gold jacobus. We have seen several of those coins which that learned and estimable Chief Justice kept and employed as counters at whist.

Before the time of Mary, the Judges rode to Westminster Hall on mules ; and Mr. Justice Whyddon, who was appointed a Judge of the King's Bench in the first year of her reign, is said to have been the first who bestrode a horse in the solemn procession.

The 'forum litibus orbum' has never been a good sign in modern times, and accordingly the lawyers seem to have had a poor time of it in the reign of bloody Mary. Heylin tells us that in the year before her death there was at the King's Bench bar only one man of law and but one Serjeant in the

Common Pleas, 'both having little more to do than to look about them, and the Judges not much more to do than the lawyers had.'

The expenses of the Judges on circuit were, previously to the reign of Elizabeth, borne by the Sheriffs; but this was found so burdensome, that an Order in Council was made, in 1574, that the 'Justices shall have of Her Majesty several sums of money out of her coffers for their daily diet.'

In writing the 'Lives of the Judges,' Mr. Foss has found it impossible not to notice the remarkable volumes of Lord Campbell, which contain those of the Chancellors and Chief Justices. Those works, which contain evidence of much labour, are written in a lively and popular—if somewhat jaunty—style. But they were written too fast, and Lord Campbell did not take sufficient pains to insure accuracy in his statements, which he too often accepted at secondhand, without giving himself the trouble to examine the original authorities. We will mention a few of Lord Campbell's blunders, some of which show that he contented himself with carelessly borrowing from preceding writers; and, in more than one case, without any acknowledgment. He copies Oldmixon's mistake in calling Arfastus, the first officer under William the Conqueror to whose name the title of Chancellor is added in the charters contained in the 'Monasticon,' Bishop of Helmstadt in Germany, although Spelman, the only authority whom Lord Campbell cites, describes him as Bishop of Thetford. The fact is, he was previously Bishop of Elmham in Norfolk, the original seat of the bishopric, which was removed by him to Thetford and by one of his successors to Norwich, which may account for Oldmixon's error. Lord Campbell places Baldric amongst the Chancellors under William I., and speaks of the charter in the 'Monasticon,' to which his name is attached, as granted 'to the monks of St. Florentius of Andover.' He then quotes some lines from Spenser and Pope, *which he found in Johnson's Dictionary*, as furnishing the etymology of the name, declaring that 'it is said that the poetical name for a belt, or girdle was taken from the Chancellor, who is supposed to have worn one of uncommon magnificence.' Unluckily, the real name was *Waldric*, the initial G and B being various ways of Latinizing the W.

Mr. Foss makes the mistake of saying that this Chancellor became Bishop of Landaff—having been misled by Lingard, who was misled by the reading *Landavensis* in Duchesne's edition of Orderic. But the true reading is *Laudunensis*, *i.e.* Bishop of Laon, and a full account of him may be found in Gilbert of Nogent, 'De Vita Sua,' iii. 4. The name appeared, however, in Dugdale's 'Chronica Series' as Baldricus; and Lord Campbell could not deny himself the pleasure of indulging in a joke. Moreover, the charter was a grant of the Church of Andover to the monks of St. Florentius at Saumur; and Mr. Foss shows that it was granted not by William I., but William II., as is proved by the fact that the first attesting witness immediately preceding the Chancellor is Robertus Episcopus de Nicola (Lincoln), of which see there was no Bishop of that name in the reign of William I.; but under that of William II. Robert Bloet was elected in the year 1093.

We should like to know on what authority Lord Campbell calls Robert de Sadington, who was Chancellor in 1343, 'a bad Equity Judge.' He refers to Coke; but Coke is simply silent as to his merits, and this by no means justifies the inference that Sadington was a bad Judge. There is an entry in his time of the seizure by the Mayor and Bailiffs of Sandwich of nine Papal bulls and numerous processes and letters from the Court of Rome, 'enclosed in a waxed linen cloth,' which were delivered by the Chancellor in full Chancery at Westminster to the Chamberlain of the Exchequer, to be kept in the Treasury.

The same noble author has amused his readers by a life of 'Lady Keeper Queen Eleanor,' and he tells us that the sittings in the Aula Regis 'were interrupted by the accouchement of the Judge!' Now, what are the facts according to Mr. Foss? Henry III., on going into Gascony, confided the government of the kingdom to his wife Queen Eleanor as Regent, and ordered her to deliver the Seal of the Exchequer to William de Kilkenny, to be kept by him *in the place of the great seal*, which he had directed *to be locked up* until his return from abroad. 'She could,' says Mr. Foss, 'no more be keeper of the seal during his absence, than he himself could be his own Chancellor if he were present; and the pleas he refers to in the Curia Regis were not held before Her Majesty



as *Custos Sigilli*, but as *Custos Regni*, in the same manner as the King himself sometimes presided.'

One of the most curious things in Lord Campbell's book is the extraordinary onslaught he makes, without a particle of authority, on the character of Chief Justice Billing, who presided in the King's Bench in the reign of Edward IV. It seems to be, in truth, a biography for which no foundation can be assigned, though we are loth to pronounce any of Lord Campbell's narratives to be wholly fictitious; and it is difficult to understand by what freak of fancy or temper Lord Campbell conceived such remarkable spite against his predecessor, who had lain for nearly four centuries in his tomb. Coke speaks of Billing as one of 'other excellent men' who flourished in his time. Of his birth and parentage, and early years, nothing is known; but he was a Member or Fellow, as it is called, of Gray's Inn; M.P. for the City of London, and Recorder of the same place; afterwards one of the Judges, and finally Chief Justice of the King's Bench. And yet Lord Campbell styles him 'an unprincipled adventurer,' and gratuitously conjectures that he was 'the clerk of an attorney.' Because Fuller is silent as to his ancestors and descendants, his Lordship asserts that Fuller 'is evidently ashamed of introducing such a character among worthies,' a ridiculous reason, which would prove a great deal too much, and justify similar attacks upon many others of that quaint old writer's worthies.

To show his servility, Lord Campbell quotes from a treatise, which he attributes to him, on the subject of the rival claims of Henry VI. and Edward IV. to the Crown; but Mr. Foss quietly observes that he has never seen nor heard of it. After mentioning that 'we have no materials which could justify us in ascribing to Billing the private suggestions of which Lord Campbell makes him the author, or in judging of the correctness of the motives assigned for his elevation to the Bench,' he proceeds:—

Lord Campbell, quoting from Baker's 'Chronicle' and Hale's 'Pleas of the Crown,' mentions Billing as the Judge who tried Walter Walker for saying he would make his son 'heir to the Crown,' meaning his inn so called; and he gives the Judge's ruling on the case, with the conviction and execution of the unfortunate prisoner. It is curious, however, that his Lordship, when five pages before he cites Sir Nicholas Throgmorton's address to Chief Justice Bromley, omits there

the Chief Justice's answer referring to this very 'Crown' case, though he does not name the prisoner ; by which it appears that Markham was the Judge, and that an acquittal was the consequence of his honest ruling.

Again, Lord Campbell saddles the unfortunate Chief Justice with the trial and conviction of Mr. Thomas Burdet for wishing a favourite buck of his, which the King had killed in hunting, horns and all, in the King's belly. But what says Mr. Foss ?

We cannot discover whence Lord Campbell has extracted the ruling of Billing in this or in Walker's case, which he has printed with inverted commas as quotations : but we are surprised that, with his Lordship's known experience and great knowledge of his profession, he was not aware that Burdet's case had been lately referred to in Westminster Hall ; that the record of his attainder was searched for, and found in the *Baga de Secretis* ; and that this labour might have been spared by looking into Croke's 'Charles,' p. 120, where the proceedings against him are published. The result of all this would have proved that the whole story of the buck and the belly was a figment, and that the charge against Burdet was for conspiring to kill the King and the Prince by casting their nativity, foretelling the speedy death of both, and scattering papers containing the prophecy among the people.

Another instance of reckless romancing on the part of Lord Campbell occurs in the life of FitzJames, who was Chief Baron of the Exchequer and Chief Justice of the King's Bench in the reign of Henry VIII. It is really amusing to see the way in which Mr. Foss demolishes statements which were made by Lord Campbell as if they contained nothing but certain unquestionable fact. When Lord Campbell tells us that '*it is said* that FitzJames, who was a Somersetshire man, kept up an intimacy with Wolsey, when the latter had become a village parson in that county ; and that he was actually in the brawl at the fair, when his Reverence, having got drunk, was set in the stocks by Sir Amyas Paulet ;'—that at his Inn of Court 'he chiefly distinguished himself on gaudy days by dancing before the Judges, playing the part of the Abbot of Misrule, and swearing strange oaths ;' we cannot positively confute these statements, but in the absence of all authority for them, we attribute them solely to his Lordship's desire to be lively and smart. When, however, he adds that Wolsey, FitzJames's 'former chum . . . . . was able to throw some business in his way in the Court of Wards and Liveries,' he unfortunately forgets that the Court of Wards and Liveries was not established until ten years after FitzJames's death. He accuses him of being the adviser and dictator of the articles against Wolsey his benefactor, for no other appa-

rent reason than that his name appears as the last of the seventeen persons, including Sir Thomas More, who subscribed them. At the trial of Fisher, Bishop of Rochester, he attributes to him, in inverted commas, the remarks which, in the 'State Trials,' are assigned to 'the Judges' generally. In the case of the conviction of Queen Anne Boleyn, he pursues the same unfair course. The 'State Trials,' say that '*The Judges* complained' that the sentence in the disjunctive that she should be burnt *or* beheaded was a thing unheard of; but Lord Campbell changes 'the Judges' into 'Fitz-James, C. J.,' and adds, within inverted commas, an argument as delivered by him on the occasion, for which there is no authority whatever. Surely this is enough to show how untrustworthy such a biography must be. 'But,' says Mr. Foss, 'the most curious part of the story remains to be told. The whole of the proceedings against the unfortunate Queen are preserved in the *Baga de Secretis*, and from them it is manifest that FitzJames was not present at all. His name does not occur in any of the writs; and Baldwin, the Chief Justice of the Common Pleas, was the principal Judge in all of them!'

Of course Lord Campbell revels in the opportunity which the life of Sir Christopher Hatton affords him of *imagining* a great many things of which he absolutely knew nothing. 'Of his conduct at the University,' says Mr. Foss, 'or at his Inn of Court, or what studies he pursued at either, there is no account, *except that given by Lord Campbell*, which as he quotes no authority, it is presumed is intended rather as an exercise of fancy than as a detail of facts.' But when he relates of a Lord Chancellor that 'while holding the Great Seal, his greatest distinction continued to be his skill in dancing,' he ought to have some better grounds for his assertion than the statement in a contemporary letter that on one occasion Hatton, when Chancellor, joined in a dance. We have no doubt that Lord Campbell thought he was safe in following the poet Gray, and relied on the amusing lines in the 'Long Story':—

Full oft within the spacious walls,  
When he had fifty winters o'er him,  
My grave Lord-Keeper led the brawls,  
The seal and maces danced before him.

But, unluckily, even this fails him ; for Mr. Foss tells us that Gray was mistaken in supposing that Hatton occupied the house at Stoke Pogeis the *locus in quo* of the imaginary revels. The truth is, that, notwithstanding his want of professional training for the Bench (although he had been a law student in his youth), he acquitted himself with considerable credit ; and having before us the testimony of David Lloyd in his 'State Worthies,' who, writing in the next century, says that 'the Chancellorship was above his law, but not his *parts* ; so pregnant and comprehensive that he could command other men's knowledge to as good purpose as his own. . . . Seldom were his decrees reversed in Chancery, and seldomer his advice opposed in Council. So just he was, that his sentence was law with the subject ; so wise, that his opinion was oracle with his Sovereign'—we need not stop to confute Lord Campbell's sneering remark that his greatest distinction was skill in dancing.

If Lord Campbell's long and laborious life had been still further protracted, and he had submitted his works to a thorough and careful revision, the volumes would have been considerably improved, and might not only be read for amusement, but what we believe is seldom the case now, be referred to as authorities.

Let us now glance at the lives of some of the earliest Judges, who of course were generally ecclesiastics. But they were not only men of the gown, but men of the sword—as ready to fight in the field as decide knotty points of law in the Courts. Thus Hugh de Cressingham, who was at the head of the Justices Itinerant during four years of the reign of Edward I., and at the same time Rector of Chalk in Kent, was appointed Treasurer of Scotland when Baliol renounced the throne in 1296 ; and on the rising of Wallace in the following year he threw aside his legal robes and cassock, and fell in battle on the banks of the Forth. He was detested by the Scotch for his oppression, and it is said that Wallace ordered as much skin to be taken off his dead body as would make a sword-belt. William le Vavasour, a Justice Itinerant in 1304, served the King in his expedition into Gascony, and in his wars in Scotland. In Nicolas's 'Siege of Carlaverock' in 1300 his prowess is thus celebrated :—

E de celle mesme part  
 Fu Guillaum li Vavasours  
 Ke d'armes n'est muit ne sours.

He was afterwards appointed one of the Justices of Trailbaston for York. William de Vesey, while filling the office of Chief Justice in Ireland, was charged by John FitzThomas with confederating against the King, and challenged his accuser to meet him in mortal combat; so that Lord Norbury might have quoted a precedent if he wanted one, when he told a barrister who affronted him on the Bench that he was ready to fight a duel with him when he had thrown off his gown. De Vesey came ready armed into the field, but FitzThomas showed the white feather and kept away. John de Delves, before he was made a Judge in the Common Pleas in 1364, fought at the battle of Poitiers as Squire to the gallant Lord Audley, who 'went to the foremost front of all the battayle, all onely accompanied with fowr squyers, who promised not to fayle him, and these dyd marvels in armes.' Geoffrey le Scrope, who was Chief Justice of the King's Bench in the reign of Edward III., accompanied the King in the invasion of Scotland, and displayed his banner and pennon at the affair of Stannow Park. He also served at the Siege of Tournay in 1340. But Mr. Foss has shown that at that time he had ceased to be Chief Justice.

Richard le Scrope, who was Chancellor in the reign of Richard II., had been a distinguished soldier, and fought at the battles of Crecy and Nevil's Cross in the same year, 1346. So bravely did he bear himself against the Scotch, that he was made a Knight Banneret in the field. After he had resigned, or rather, been deprived of the Great Seal, he resumed the profession of arms, and accompanied King Richard in an expedition against Scotland in 1385.

The way in which trained lawyers came to supply the place of belted earls and warlike barons on the Bench is easy to conjecture. No doubt Mr. Foss is right when he says:—

The members of the Curia Regis consisted of various officers of the palace and the prelates and barons of the realm. Of the latter, some from their avocations would be unable to attend, and others, from their ignorance, would be incompetent to assist in the judicial duties of the Court. These functions were gradually left to the management of a few of the barons, who were expressly selected on account of their superior judgments or attainments, until, by the advance of legal

science and the increase of legal intricacies, it became necessary at first to associate with them, and eventually to substitute for them, persons whose lives had been devoted to judicial studies.

As might be expected, there are very few personal anecdotes to be gleaned from the lives of the Judges for the first three or four hundred years after the Conquest, except in the case of such men as Becket and William af Wykeham. It is difficult, therefore, to realize these ancient sages of the law as men of like passions as ourselves : eating, drinking, and jesting ; marrying and giving in marriage ; and sometimes, we fear, swearing on the Bench. At least so we may conjecture from the language used by John de Mowbray in 44 Edward III. as reported in the Year-Book, who called out to the Bishop of Chester, a defendant in an action tried before him, '*allez au grand diable.*' And Hill, who was a Judge of the Common Pleas in the reign of Henry V. when an action was brought against a dyer who had bound himself not to use his craft for half a year, not only held that the bond was void as in restraint of trade, but added, according to the report in the Year-Book, 'And by God, if the plaintiff was here he should go to prison till he paid a fine to the King.'

We read of FitzOsborne, Justiciary of England in 1067, escaping a blow which the irascible Conqueror aimed at him because, in his capacity of Steward of the Household, he had set on the royal table the flesh of a crane which was scarcely half-roasted ; an affront that made him resign his office of Dapifer.

Adam de Gernemue (*i. e.* of Yarmouth), who was one of the Justices Itinerant in the reign of Henry II., had previously been Clerk to the Signet under Henry I., and was summoned before that monarch by Thurstan le Despencer, or Steward, for refusing to sign a bill without a fee, as was customary among officers of the court. But Adam answered that he merely asked for two spice-cakes made for the King's own mouth, on which Henry ordered Thurstan to put off his cloak and go and bring the two cakes on a white napkin and with a low curtsey to offer them to Adam, observing, that 'Officers of the Court must gratifie and show cast of their office, not only to one another, but also to strangers, whenever need shall require.'

John de Cavendish, who was one of the Judges in the latter part of the reign of Edward III., seems to have had a spice of dry humour in him. A case occurred before him in which a question arose as to a lady's age, and her Counsel urged the Court to call her before them and decide for themselves 'on the view' whether she was within age or not. But women are the same in all time, and the Judge showed that he knew them when he observed, 'Il n' ad nul home en Engleterre que puy adjudge a droit deins age ou de plein age ; car ascun femes que sont de age de xxx ans voilent apperer d'age de xviii ans.'

In wandering over the names of these old black-letter lawyers, it is refreshing to meet with one who, even in those early days, dallied with the Muses. Such was Walter Map, or, as he is sometimes erroneously called, Mapes, Precentor of Lincoln, Archdeacon of Oxford, and Justice Itinerant in the reign of Henry II. He was a jovial and satirical poet, and his rhyming verses were very popular among his contemporaries. A drinking song has been ascribed to him, beginning with the line—

Meum est propositum in tabernâ mori.  
My purpose it is in an alehouse to die.

But it belongs to a later period. He hated the Jews and the White Monks, and when he took the usual oath as a Judge, to administer right to every one, insisted on excepting them both. This perhaps accounts for the occurrence of his name only once in the lists of justices, for it is not likely that even in those times he would be permitted to scandalise the Bench by an avowed determination to do injustice.<sup>1</sup> There were special Justices of Jews, who seemed always to have sat with the Barons of the Exchequer, and perhaps existed only for the purpose of taxation, but their duties terminated after the expulsion of that unhappy people from the realm, in the reign of Edward I.

Another learned Judge, in the full sense of the term, was Richard de Bury, who was made Chancellor in 1334. He was an ecclesiastic, and Bishop of Durham, and seems fully to

<sup>1</sup> His poems and his treatise 'De Nugis Curialium' have been published by the Camden Society, and Mr. Wright shows that several of those pieces which appeared under the name of 'Goliath Episcopus,' were written by him.

deserve the eulogium of Mr. Foss, who says that the memory of few names, and none in that age, is more endeared than that of Richard de Bury. He was the author of the 'Philobiblon,' a work in which he gives instructions for the management of the first public library founded at Oxford, and endeavours to excite a love of literature, and a taste for the fine arts. Like D'Aguesseau, the great Chancellor of France, he turned every moment to account, and neither his meals nor his travels were spent idly. 'During the former he was read to by his chaplains, among whom were numbered some of the most celebrated men of the day, and afterwards he discussed with them the various subjects suggested by the reading. During the latter, he occupied himself in forming what became the largest library in Europe, the possession of which was one of his greatest glories, as its accumulation formed his chief delight. He spared no pains in securing the most curious and valuable manuscripts, and speaks with evident glee of the motives which influenced the donors of some, and of the difficulties he had to overcome in obtaining others.' Let us add that he was as benevolent and bountiful to the poor as he was devoted to learning.

We can hardly place Judge Markham, in the reign of Richard II., amongst the number of literary Judges, although when the wife of one who was in exile, brought an action in her own name alone, and it was decided that she could do so because her husband was attainted in law, and she was the king's tenant, he extemporised from the Bench the following doggrel Latin lines—*faits a loisir* :—

Ecce modo mirum, quod fœmina fert breve Regis  
Non nominando virum conjunctum robore legis.

Bryan, who was Chief Justice of the Common Pleas in the reign of Henry VII., was a scholar and a poet. Drayton thus sings of him :—

And sweet-tongued Bryan, whom the Muses kept,  
And in his cradle rocked him while he slept.

But as a general rule the Judges of ancient times were probably not unjustly described by Cecil, Earl of Shaftesbury, in 1610: 'Most of our lawyers and judges though learned in their profession, yet not having other learning, they, upon a



question demanded, bluntly answer it, and can go no further, having no vehiculum to carry it by discourse or insinuation to the understanding of others.'

It was by no means uncommon for Judges, when they were removed from the Bench, to resume their practice at the Bar, and in some cases they seem to have acted as advocates, even while they held the office of Judge. Thus, William Inge in the reign of Edward II., appears as an advocate in the Year-Book when he was a Justice of Assize, and he was regularly summoned amongst the Judges to Parliament. He was afterwards elevated to the Chief Justiceship of the King's Bench. But perhaps in acting as Justice of Assize, he was only in the same position as Queen's Counsel and Serjeants at the present day whose names are put in the Commission, and who frequently assist the Judges by trying causes and prisoners in the civil and criminal courts. If, however, we may credit a passage in the 'Paston Letters' (vol. i. 149), so late as the time of Edward IV., Yelverton, who was a judge of the King's Bench during the trial that arose out of Sir John Fastolf's will, 'came down from the Bench and plete (pleaded) the matter.' When Pemberton, a Judge in the reign of Charles II., was dismissed from the Bench, he returned to his practice at the Bar. He was afterwards made Chief Justice, first of the King's Bench, and then of the Common Pleas, and being again dismissed, he a second time returned to the Bar, and was one of the leading Counsel in the defence of the seven Bishops in 1688.

In reading the accounts of these old Judges, one remarks the success which they seem to have had in feathering their nests, and it is difficult to believe that they could have left such large property out of the profits of their office or their previous practice. But it must be borne in mind that many of them were ecclesiastics, and had Church preferment, and others were military knights and landed gentry, whose position on the Bench was more like that of county magistrates than professional judges. As at the present day, the gains of successful barristers were often greater than their salaries as judges; and we find Aysgoghe, in the reign of Henry VI., complaining, in a petition to the King, that he was called to the Bench and made Justice before he had been fully two years

in the office of Serjeant, 'by which makynge Justice, all his winnings that he sholde have made in the said office of Serjeant, and alle the fees that he had in England, weere and becessed and expired to his grete empovrysshynge, for they were the grete substance of his lyvelode.' He therefore prayed, as he was 'the porest of alle your Justices,' that the King would grant him certain tenements of the value of 25*l.* 12*s.* 10*d.* a year. This must be multiplied by fifteen to make it represent the present value of money, so that what the Judge asked for was equivalent to an estate yielding 385*l.* a year.

As an example of the careful accuracy with which Mr. Foss has investigated facts, we may adduce the case of Chief Justice Gascoigne. This was Henry IV.'s Chief Justice, and in reading of him in Shakespeare's pages we hardly know whether to admire most the dignified and high-spirited Judge who did not fear to commit to prison the heir apparent to the throne, or the prince who, when he was king, forgot the affront, and bade the Chief Justice 'still bear the balance and the sword.' But was Gascoigne Chief Justice to Henry V. at all? Lord Campbell, indeed, asserts that he can 'prove to demonstration that Sir William Gascoigne actually filled the office of Chief Justice of the King's Bench under Henry V.' But it turns out that the only evidence on which his lordship could rely, is the fact that in the summons to Parliament, dated the day after the accession of Henry V., Gascoigne is styled 'Chief Justice of our Lord the King.' This might be sufficient if there were not strong proofs to the contrary. Amongst these are the following:—1. We find Sir William Hankford filling Gascoigne's place as one of the triers of petitions in the first parliament of the new reign, and presiding in the King's Bench in the same year. 2. In the Issue Roll of July, 1413, just after the death of Henry IV., he is called '*late* Chief Justice of the Bench of Lord Henry, father of the present King.' 3. In the inscription on his monument in Harewood Church, in Yorkshire, dated 1419, he is described as '*nuper capit. justic. de banco, Hen. nuper regis Angliæ quarti.*' We consider the last argument conclusive, for if he had been re-appointed Chief Justice by Henry V., his epitaph would have not stopped short with the mention of having been '*late* Chief Justice of the late King Henry IV.' A difficulty remains

owing to the date given by Dugdale of Sir William Hankford's elevation to the Chief Justiceship, which he places in January, 1414. Now Henry V. ascended the throne in March 1413, and who was Chief Justice in the interval? Lord Campbell would naturally say, in accordance with the language of the summons to Parliament already quoted, Who but Sir William Gascoigne? But Mr. Foss has referred to the Roll itself, containing Hankford's appointment, and it turns out that the date, instead of being January 29, 1414, as stated by Dugdale, is March 29, 1413, just eight days after Henry's succession to the Crown. The inference, therefore, is irresistible, that so far from the King addressing the upright magistrate in the magnanimous words which Shakespeare puts into his mouth—

You did commit me :  
For which I do commit into your hand  
The unstained sword that you have used to bear—

he showed his resentment by depriving the Chief Justice of his office. There is a curious story told of Hankford, who was Gascoigne's successor on the Bench, that, having become weary of his life, he gave strict orders to his keeper to shoot any person found at night in his park who would not stand when challenged, and then throwing himself in the keeper's way, he was shot dead, in accordance with his own commands. But Mr. Foss thinks that this account of judicial suicide is very improbable, and shows that at all events Holinshed represents it as happening nearly fifty years after the death of the Chief Justice.

In the same way he disposes of the tradition that Chief Justice Hody, in the reign of Henry VI., whom Coke calls one of the 'famous and expert sages of the law,' pronounced sentence of death upon his son Thomas—who was tried before him at the assizes, and found guilty of a capital crime—by showing that Thomas was a younger son, and that the eldest son of the Judge could not have been more than six or seven years old at his father's death.

As another instance of the conscientious labour Mr. Foss has bestowed upon his work, we may mention the trouble he has taken to clear up the pedigree of Sir Thomas More. All former biographies of the illustrious and unfortunate Chan-

cellor, including that by his own son-in-law, Roper, are almost entirely silent as to the family from which he sprang. His great grandson, Cresacre More, wrote his life, and mistranslated his epitaph, written by himself, 'Thomas Morus familiâ non celebri, sed honestâ ortus,' by the words 'Thomas More, born of no *noble* family, but of an honest stock.' No one had hitherto discovered who his grandfather was, and the way in which Mr. Foss ferrets out the conclusion that he was first the butler, afterwards the steward, and finally the reader of Lincoln's Inn, and that his father was also at one time butler of the same Inn, is an instructive example of patient research and exhaustive reasoning. Mr. Foss half apologises for the space he has devoted to the inquiry, but we think he vindicates himself successfully when he says, 'There is a natural and universal desire to know from what stock a great man has descended; and who is there, whether he be lawyer, philosopher, or historian, who will deny that title to Sir Thomas More?' And yet, curiously enough, in his life of Wolsey, when alluding to the tradition that his father was a butcher, Mr. Foss says, 'Some of his biographers have given no credit to the story, and the question is too immaterial to discuss.'

We pride ourselves, and justly, on the purity of our Judges, and perhaps no body of men, whose corporate existence extends over eight centuries, would upon the whole come more unstained out of the ordeal of a searching inquiry into their characters. But there are startling exceptions, and we can only congratulate ourselves that they are things of the past, and are impossibilities now. A story is told of the great warrior-judge and learned author, Ranulph de Glanville, which, with Mr. Foss, we would willingly believe to be untrue, although he gives no sufficient reason for doubting it. He is said to have unjustly condemned Sir Gilbert de Plumpton, in 1184, on a charge of rape, for the purpose of enabling the knight's widow, who was a wealthy heiress, to be married to a friend of his own. Sentence of death was passed and immediate execution ordered, but the Bishop of Worcester humanely interfered, and on the case being referred to the King, Sir Gilbert's life was spared, although he was kept in imprisonment for the rest of the reign.

There seems to be no doubt that the Judges were in the habit of taking money from others besides the King. The Knights Hospitallers Survey, made in 1328, mentions pensions to the amount of 440*l.*, of which 60*l.* were paid to the Judges and their clerks, the Chief Baron receiving 40 marks ; and a further sum of 200 marks a year is stated to be spent in presents made in the Courts of the King and the nobles, '*pro favore habendo et pro placitis defendendis, et expensis parliamentorum.*'

In the reign of Edward I. wholesale corruption disgraced the Bench. On his return from France, in 1289, he was met with heavy complaints that his Judges took bribes and gave false judgments. The King immediately instituted enquiries, and the result was that almost all the Judges were dismissed from their office, and some of them only redeemed themselves from imprisonment by the payment of considerable fines. Against one of them, Thomas de Weyland, a more terrible charge was brought. He was accused of having instigated his servants to commit a murder, and then screened them from punishment. He was arrested, but contrived to escape, and fled to the Sanctuary of the Friars Minors, at St. Edmondsbury, where he remained for forty days. Here, however, he was starved into surrender, but was allowed to adjure the realm without standing a trial, and all his property, as if he were a convicted felon, was confiscated to the King's use. Ralph de Hengham, the Chief Justice of the King's Bench, is said to have been fined 7,000 marks, or, according to another account, only 800, which, if we may believe tradition, was imposed upon him for altering a record by reducing, out of pity, a penalty inflicted upon a poor man from 13*s.* 4*d.* to 6*s.* 8*d.* Judge Southcote, in the reign of Elizabeth, refused, on a similar occasion, to tamper with the record, saying that 'he meant not to build a clock-house ;' and he added in explanation, 'that with Hengham's fine the clock-house at Westminster was built, and furnished with a clock to be used in the hall ;' and Mr. Foss shows that the objection to its probability, on the ground that clocks did not come into use until a hundred years afterwards, is unfounded, for with his usual antiquarian accuracy, he points out that a great clock was put up about the same period in Canterbury Cathedral. That

the offence of Ralph de Hengham was not of a very heinous kind seems to be proved by the fact that ten years afterwards he was restored to the Bench ; but we find his name then placed nearly at the bottom of the list of Judges and other officers who were summoned to the Parliament of 28 Edward I., as if amongst the Justices Itinerant. He was afterwards appointed Chief Justice of the Common Pleas, and on his death was buried in St. Paul's Cathedral, with an epitaph over his remains, in which he was called 'vir benedictus,' and 'Flos Anglorum.' Against John de Lovetoft, another of these disgraced Judges, one of the charges was that he had taken a verdict from eleven jurors although the twelfth disagreed with them ; and Adam de Stratton, a Baron of the Exchequer, is more than once styled 'felo,' although the precise nature of his crime is not specified.

In the 6th year of Edward II., John de Bosco, one of the Judges of Assize, was convicted of abstracting a King's writ and substituting a false one in its place. In 1350, William de Thorpe, the Chief Justice of the King's Bench, was convicted, on his own confession, of receiving bribes to stay justice ; and a few years afterwards another Chief Justice, and the Chief Baron, were imprisoned by King Edward III., on account of many notorious enormities 'which he understood they had committed against law and justice.'

When the Bench was so corrupt, we can hardly suppose that the Bar was pure. The Statute of Westminster, 3 Edward I., enacts that if 'Serjeant-countors do any manner of deceit or collusion in the King's Court . . . . he shall be imprisoned for a year and a day, and from thenceforth shall not be heard to plead in the Court for any one.' What was known to the Roman law as the base offence of *prævaricatio*, to which Cicero more than once alludes, existed also in England : for one of the petitions to Parliament, in the 18th year of Edward I., complains of a counsellor of one party having received a bribe from the other, for whom he procured a verdict. In the same reign, William de Thorpe, Chief Justice of the King's Bench, was tried by a Special Commission for corruption, and confessed that he had received bribes from several persons who had been indicted before him at Lincoln. For this he was committed prisoner to the Tower,

all his property was confiscated, and he narrowly escaped hanging.

In one of the political songs published by Mr. Wright, amongst the volumes of the Camden Society, there is one belonging to the reign of Edward I., or Edward II., which shows how unfavourable popular opinion was to the character of the Judges. Mr. Foss has given a free translation of the poem, and we will quote two of the stanzas :—

Judges there are whom gifts seduce and favourites control,  
Content to serve the devil alone, or take him for a toll :  
If nature's law forbid the judge from selling his decree,  
How dread to those who finger bribes the punishment shall be !  
If comes some noble lady, in beauty and in pride,  
With golden horns upon her head, her suit he'll soon decide ;  
But she who has no charms nor friends, and is for gifts too poor,  
Her business all neglected, she's, weeping, shown the door.

It was not every Judge who could gracefully decline a gift like Sir Thomas More. When a rich widow who had obtained from him a decree against Lord Arundel presented him on New Year's-day with a pair of gloves and forty pounds in angels enclosed in them, he emptied the money in her lap and told her that it was 'against good manners to forsake a gentlewoman's New Year's gift; he would take her gloves but refuse the lining.' When Sir Christopher Hatton suspended his secretary for taking fees to obtain the Chancellor's influence with the Queen, that officer addressed to him a letter, in which he says: 'There liveth not so grave nor so severe a Judge in England, but he alloweth his poor clerk under him, even in expedition of matters of greatest justice, to take any reasonable consideration that should be offered him by any man for his pains and travail.'

In Sir Thomas le Strange's household accounts for 1537, we find an entry which shows that money was paid to Lord Chancellor Audley's servant 'to be a meane to my said Lord' in a suit then before the Court of Chancery.

Whether the Judges sometimes bought their places is not altogether clear; but their is a most suspicious entry in the accounts of Sir Edmund Dudley, in the reign of Henry VII., where Robert Reed, formerly a Judge of the King's Bench, is stated to have *paid*, 'for the King's favour to him in the office of Chief Justice of the Common Pleas, 4000 marks.'

Mr. Foss is not one of those who think it possible to defend Lord Bacon against the charge of gross corruption while filling the office of Chancellor. All that can fairly be urged on his behalf, so far as we see at present, is that he followed a bad custom, and that other Judges had done the same. Fuller makes it a subject of special praise, in his character of Mr. Justice Nichols, that he was of 'exemplary integrity even to the rejection of gratuities after judgment given.' But Bacon knew that the custom was wrong, and he acted in direct violation of the principle which he laid down as the duty of a Judge when he addressed Mr. Justice Hutton, and warned him to remember 'That your hands and the hands of your hands, I mean those about you, be clean and uncorrupted from gifts.'

An entry in the archives of the borough of Lyme Regis leaves it 'to the Mayor's discretion what gratuity he will give to the Lord Chief Baron and his men,' at the assizes in 1620, when the charter of the corporation was in question.

It was in the weak reign of Richard II. that the unconstitutional practice began of extra-judicial opinions being demanded of the Judges by the Crown. But they paid dearly for their compliance in the first instance; and it is strange that so terrible an example was lost upon their successors. It is of course needless to point out the evils of such a course, by which the Judges judged cases before they tried them, and became the accomplices of acts of tyranny and illegality. In 1386 the Parliament impeached De la Pole, Earl of Suffolk, the Chancellor, and appointed commissioners, by whom the functions of Government were to be performed, and the whole expenditure of the kingdom was to be regulated. The ordinance enacting this was confirmed by the King's letters patent. Next year, however, the Chancellor and other fallen courtiers advised the King to resume his authority, and the opinions of the Judges were taken as to the illegality of the ordinance. Sir Robert Tresilian, Chief Justice of the King's Bench, prepared a series of questions with answers written beforehand, condemning the ordinance, and laid them before the Judges, who were specially summoned for the purpose. The Judges attached their seals to the answers; but they afterwards asserted in their defence that the answers were forced upon



them under threats and fears of violence. The Parliament was enraged, and took energetic measures to avenge the affront. Tresilian and the courtiers were appealed of treason, one of the charges against them being that they constrained the Judges to subscribe the answers to the questions. Tresilian fled for his life, but was found guilty in his absence, and sentenced to die the death of a traitor. He might have escaped had it not been for his folly in venturing back to London, at the instance of the King, who was then at Bristol, to find out what further proceedings were contemplated by the Dukes of York and Gloucester, who had then virtually the government of the realm. He disguised himself as a farmer, and took up his lodging at an alehouse, or, according to another account, an apothecary's, opposite the palace gate at Westminster; but here he was recognised, and immediately arrested. Being asked what he had to say why execution should not be done according to the judgment pronounced, he was struck dumb by terror, and making no answer, was led away to die. Froissart says he was beheaded, and afterwards hanged on a gibbet; but, according to the Parliament Roll, he was taken to the Tower, and thence drawn through the city and hanged at Tyburn. The other Judges who had signed the obnoxious document were impeached by the Commons, convicted, and sentenced to death. Their lives were, however, spared, and they were all banished to different parts of Ireland, with a prohibition from practising as lawyers. After the death of the Duke of Gloucester the sentence was reversed by Parliament; and, as Mr. Foss observes, 'the subserviency of the lawyers to the ruling power was again exhibited by the Chief Justices Walter de Clapton and William Thuring, and Judge Rickhill, confirming on that occasion the opinion for which their predecessors had suffered.'

This 'auricular taking of opinions,' as Coke called it, continued more or less until the Revolution. King James reprimanded the Judges for disobeying his order not to proceed in a private cause until they had first consulted him; and the servile Bacon disgraced himself by advising the Crown 'to make some example against the presumption of a Judge, whereby the whole body of the magistrates may be contained in better awe.' We may forgive Coke much of the unfeeling

coarseness with which he conducted state prosecutions, for the noble stand he made in asserting the independence of the Bench. He twice resolutely opposed the King in his attempts to interfere with it; and when he and the other Judges were summoned before the Council to account for a judgment they had given, he said to the Lords, 'We hope that where [as] the Judges of this realm have been more often called before your Lordships than in former times they have been, which is much observed, and gives much emboldening to the vulgar, that after this day we shall not be so often, upon such complaints, your Lordships being truly informed of our proceedings, called before you.' On another occasion he boldly told the King, 'Your Majesty is not learned in the laws of the realm of England.'

A curious story is given by Dugdale in his 'Baronage,' which Mr. Foss quotes, of a dinner given in the same reign by one Beauchamp, a litigant of certain lands, to his counsel, including Charlton, one of the Judges, when, 'after dinner, coming out of his chappel in an angry mood, he threw to each of them a piece of gold, and said, "Sirs, I desire you forthwith to tell me whether I have any right or title to Hastings lordship and lands?"' The lawyers, however, would not prophesy deceits, for they told Beauchamp plainly that his claim was bad.

The Judges seem to have been employed in old times in drawing Acts of Parliament; and we are not sure that much of the confusion, and many of the mistakes which occur in modern statutes might not be avoided if they performed the same function now. At all events, the Bills in Parliament might usefully be submitted to them for revision before they are finally passed. But we fear that the judicial staff is, under present arrangements, too much overworked to admit of this. In the reign of Henry I. Chief Justice Hengham said, to a counsel who was putting his construction on the statute 13 Edw. I., Westm. 2, '*Ne glosez point le statut : nous le savons meuz de vous, car nous les feimes.*'

The reigns of Henry VII. and his three immediate successors are with a few exceptions undistinguished by any great judicial names. Of course those of Archbishop Morton and Cardinal Wolsey—who are, however, better known a

prelates than as judges—and Cromwell and Sir Thomas More, will readily occur to the reader; but we do not think that a single puisne of that time has left behind him a trace of his existence which posterity will care to remember. We do not, however, doubt that many of them deserved the same eulogium that Sir Edward Coke passed upon Mr. Justice Gawdy, who he says, 'was a most reverend judge and sage of the law, of ready and profound judgment and venerable purity, prudence, and integrity;' but we know little of them more interesting than is contained in the epitaph on Baron Birch, who died in 1581:—

Interr'd the corps of Baron Birch lies here,  
Of Greyes Inn, sometime, by degree esquire;  
In Chequer eighteen years a Judge he was,  
Till soule from aged body his did passe.

It is impossible to add anything to the testimony which all writers have given to the spotless character of Sir Thomas More. He is one whom all men delight to honour; and his judicial murder was one of the foulest blots upon the reign of his detestable master. Lord Audley, who succeeded him as Lord Chancellor, was a mean and rapacious lawyer, the ready minister and tool of the King's caprice, who kept the Great Seal for twelve years, on the same principle as that by which Lord Keeper Paulet, in the reign of Edward VI., explained his prosperity:—

I am a willow not an oak:  
I chide, but never hurt with stroke.

He fattened on Church plunder, 'carving for himself,' as Fuller quaintly remarks, 'on the feast of the abbey lands, the first cut, and that a dainty morsel.' Mr. Foss says of him with perfect truth: 'His interpretations of the law in the various criminal trials at which he presided are a disgrace not only to him, but to every member of the Bench associated with him; while both branches of the Legislature are equally chargeable with the ignominy of passing the Acts he introduced, perilling every man's life by the new treasons they invented, and every man's conscience by the extraordinary oaths they imposed.'

The life and character of Coke, the oracle of the common law, are so well known that it is needless to dwell on them. He was a proud and arrogant man, and a harsh advocate; but he was a fearless and upright judge at a time when corruption was rife in almost every department of the state. Judge Whitelock says of him, 'Never was a man so just, so upright, so free from corrupt solicitations of great men and friends as he was; never put Counsellors that practised before him to annual pensions of money or plate to have his favour. In all causes before him the Counsel might assure his client from the danger of bribery.' But it would be unfair to omit mention of Lord Chancellor Ellesmere, who held the Great Seal for seven years under Elizabeth, and for nearly fourteen years under James I., amidst the universal applause of his contemporaries. Bishop Hacket describes him as one '*qui nihil in vitâ nisi laudandum aut fecit aut dixit aut sensit*;' and the very exaggeration of this praise shows the estimation in which he was held.

The strange and improbable story that Chief Justice Popham, in the same reign, became the owner of Littlecote, in Wiltshire, as his reward for allowing Darrell, the former proprietor, to escape on his trial for an atrocious murder, which forms the subject of Scott's ballad in 'Rokeby,' 'The Friar of Orders Grey,' is entirely discredited by Mr. Foss; and we agree with him that it would be curious to trace the circumstances to which such a tradition owes its origin, but we fear that this is now impossible. Does any record or document exist to show that a man, named Darrell, was tried at that period for such a crime? Mr. Foss suggests that 'if the petition, which Sir Francis Bacon in his argument against Hollis and others for traducing public justice, states was presented to Queen Elizabeth against Chief Justice Popham, and which, after investigation by four Privy Councillors, was dismissed as slanderous, could be found, it might possibly turn out that this story was the slander; and the Chief Justice's subsequent enjoyment of his high office would be a sufficient proof of its utter falsehood.'

It is certain that, notwithstanding the high eulogium passed upon Popham by Lord Ellesmere and Sir Edward Coke, an evil tradition clings to his name; for he is said in

his wild youth to have gone on the highway and taken purses as a common robber.

We wish that Mr. Foss had been a little more explicit in informing us how the business of the courts of justice, both at Westminster and in the provinces, was carried on during the great Rebellion. We believe that the Judges went circuit as usual, and it is a remarkable proof of what we may call the stable equilibrium of the English nation and its reverence for law, that in the midst of contending armies causes should be decided and the gaols be delivered, as in a time of profound peace. In the confusion that followed after the King's murder it was different :—

'The expulsion of the Parliament,' says Mr. Foss, 'put a stop for a time to legal business, and in the following October the hearing of causes in Chancery was suspended for a month while the Bill for the suppression of the Court was under discussion. In the summer of 1654 the Assizes were delayed by an Ordinance of Council that none of the Judges should go out of town till further order ; and in the disordered state of the nation, after the return of the Long Parliament, there were no less than three terms lost, all writs, fines, and assurances were stopped, and there was danger of having no Assizes.'

With respect to the Protectorate, he says :—

Whatever opinion may be entertained of the general merits or demerits of the actors in the great Rebellion, all parties must allow that, judging from most of the legal appointments, it was the desire and endeavour of the usurping powers to keep the course of justice uncontaminated, and to preserve respect for the administration of the laws. With few exceptions the Judges of the interregnum were men capable and respectable, and in some instances of high character and attainments.

Lord Shaftesbury, in the reign of Charles II., was the last Judge who was not previously a regularly trained lawyer. He, however, like Sir Christopher Hatton, had studied law in his youth, and was a member of the Society of Lincoln's Inn. We need not give the details of his versatile career as Member of Parliament, soldier, courtier, and statesman. A Royalist at the commencement of the Civil War, he soon deserted the cause of the King and commanded the army of the parliament in Dorsetshire, where he took Wareham, Blandford and Abbotsbury. During the Protectorate he sat in the Barebones Parliament, and

Bartering his venal wit for sums of gold,  
He cast himself into the saint-like mould :  
Groan'd, sighed, and prayed while godliness was gain,  
The loudest bagpipe of the squeaking train,

He joined General Monk when he saw that the restoration of the King was probable, and was one of the deputation sent by the two Houses of Parliament to the Hague to invite Charles II. to return. He was afterwards created a peer. When the Great Seal was taken from Lord Keeper Bridgman, it was given to him, and the new Lord Chancellor astonished the lawyers by the dress he wore while occupying the marble chair. 'He sat on the bench in an ash-coloured gown, silver-laced, and full-ribbed pantaloons displayed, without any black at all in his garb.' But he surprised them still more by the excellence of his decisions, which extorted from Dryden his well-known and noble eulogium; and King Charles is said to have declared he had a Chancellor 'that was master of more law than all his Judges, and was possessed of more divinity than all his Bishops.' He did not, however, hold his high office long, for in less than a year he was compelled to resign the Great Seal, and became for the rest of his life a turbulent and factious opponent of the Court until he died a fugitive at Amsterdam in 1683.

He was succeeded by Lord Nottingham, 'the English Cicero,' 'the smooth-tongued solicitor,' and 'father of equity,' one of the ablest Chancellors and purest Judges who have ever adorned the Bench. To him we owe the Statute of Frauds, every line of which, Lord Campbell somewhere declares 'deserves a subsidy.' Roger North, whose mind was as little as his style is detestable, does his best to depreciate him, calling him a formalist, 'supposing that if he split the hair, and with his gold scales determined reasonably on one side of the motion, justice was nicely done.' Lord Campbell says that he 'fully deserves all the praise that has been bestowed upon him as a consummate lawyer,' and only takes exception to his character as a politician. But those were times that tried men's souls, and we need not be surprised that the lawyers were skilled in the art of tergiversation. Sir Harbottle Grimston had been looked upon as one of the most active amongst the party of the Parliament, and was one of the Commissioners selected to negotiate with Charles I. in the Isle of Wight. But he did not go so far as others. He wished the monarchy to be preserved, and was in consequence of his opinions excluded from the House of Commons. On the King's return

he was elected Speaker of the Convention Parliament, and his style of oratory may be appreciated by the following specimen, taken from his speech previous to the dissolution: 'We must needs be a happy parliament, a healing parliament, a reconciling and peaceful parliament, a parliament *propter excellentiam*, that may be truly called *parliamentissimum parliamentum*.' He was afterwards made Master of the Rolls, and held the office for twenty-six years, dying at the advanced age of eighty-nine. He owed his success as a lawyer originally to love; for having formed an attachment to a daughter of Sir George Croke, the Judge told him that he should not have her unless he resumed the profession that he had abandoned.

One great object of Lord Campbell's hatred is Lord Keeper Guilford, of whose life we know the minutest details from the gossiping biography of his brother Roger North. Lord Campbell calls him 'one of the most odious men who ever held the Great Seal of England—selfish, cunning, sneaking, and unprincipled,' and says that 'throughout his whole life he sought and obtained advancement by the meanest acts.' We have no great admiration for Lord Guilford; but the character here given is grossly overcharged. We think that a much fairer estimate of the Judge has been made by Mr. Roscoe, in his 'Lives of Eminent British Lawyers,' who says, 'He was unstained by that loose prostitution in politics and by that abandoned corruption which darkened the characters of Sunderland and Jeffreys. Honest in his opinions and in the expression of them, he refused on more than one occasion to sacrifice them to his interests. But his character was altogether destitute of elevation. He was thus led into meannesses, and sometimes into compliances, which men of loftier principles would have despised.'

Amongst all the Judges in the latter part of the seventeenth century, and indeed in the whole list from the time of the Conqueror to the present day, there is no one whose name stands higher than that of Sir Matthew Hale. Great as a lawyer and excellent as a man, his reputation shines brighter as time goes on, and there is no Judge upon whose character we dwell more fondly than that of this pious and upright magistrate. He was raised to the Bench by Cromwell, but on

the death of the Protector refused to accept a new commission from the feeble Richard. At the Restoration he was made Chief Baron, and eleven years afterwards Chief Justice of the King's Bench, which office he resigned in 1676, when ill-health and increasing infirmities made him feel that he could not discharge it efficiently. His resignation was looked upon as a national loss, and when Lord Chancellor Finch addressed his successor, Sir Richard Rainsford, he spoke of the 'deplorable cause' which occasioned it, and said that 'the infirmity of that body, which began to forsake the ablest mind that ever presided there, hath filled the kingdom with lamentations, and given the King many and pensive thoughts how to supply that vacancy again.' It has been made matter of reproach to his memory that he condemned to death two wretched women convicted before him of the crime of witchcraft; but if he believed in witches, so also did Bacon and Sir Thomas Browne, and all he had to do was to administer the law, and witchcraft was then a capital crime. Mr. Foss takes the right view when he says :—

The censors forget that, as a Judge, he was bound to administer the law as it stood, without regard either to its severity or even its absurdity; that the evidence, though in these enlightened days it might be deemed puerile and unconvincing, being cumulatively circumstantial and entirely uncontradicted, fully satisfied the jury, whose verdict left the Judge no choice but to pronounce the sentence enjoined by the statute, and that they might as justly condemn every Judge who, contrary to his own private feeling, has doomed a prisoner to capital punishment under an Act that has been since repealed. In censuring him for his belief in witchcraft, they should remember that it was the almost universal persuasion of the time, in which he had for his associates some of the most eminent men of all ages, and which even now is not wholly abandoned.

And yet one cannot but heartily wish that he had had the good sense in this matter of Judge Powell, in the reign of Queen Anne, who, when a woman was tried before him for witchcraft, and charged with being able to fly, asked her whether she could fly, and on her confessing the crime, said, 'well, then, you may; there is no law against flying.'

But in the same reign the judicial Bench was disgraced by the appointment of such men as Scroggs, Jeffreys, and Wright. Of Scroggs and Jeffreys it is needless to speak. Their names have become a by-word for savage cruelty and brutal perversion of justice. Wright was made a Baron of the Exchequer in 1684, and succeeded Herbert as Chief Justice of the King's



Bench under James II. Lord Keeper North, who was pressed by Jeffreys to raise him to the Bench, told the King that 'he was a dunce and no lawyer, of no truth or honesty, guilty of perjury, and not worth a groat, having spent all his estate in debauched living.' He died a prisoner in Newgate immediately after the Revolution. Saunders, who was one of the Chief Justices made by Charles II., was a coarse and vulgar beast, but an acute lawyer and upright Judge. In the graphic portrait of him by Roger North, who called him 'a mere lump of morbid flesh,' he says: 'As to his ordinary dealing, he was as honest as the driven snow was white; and why not, having no regard for money, or desire to be rich.'

'As for the Judges, they are most of them rogues,' was the opinion expressed by Jeffreys to Lord Clarendon when he spoke of the Bench in the reign of James II.; and as he was the Chancellor who had appointed most of them, we need not dispute his authority. They were in truth a miserable set. Perhaps we ought to except Chief Baron Atkyns, Mr. Justice Charleton, Chief Justice Herbert, Mr. Justice Holloway—who was one of the first passengers in the 'flying coach . . . . having a boot on each side,' that started from Oxford to London in May, 1669, and performed the journey in thirteen hours—and Sir Cresswell Levintz. When Baron Heath was asked how he had the conscience to declare the petition of the Seven Bishops a factious libel, he answered, 'You need not trouble yourself with what I said on the Bench; I have instructions for what I said, *and I had lost my place if I had not said it.*' And of course we must except Mr. Justice Powell, the bold defender on the Bench of law and justice, at the trial of the Seven Bishops, of whom we regret to find that Mr. Foss can give us only the most meagre information.

Amongst the immense benefits conferred by the Revolution, not the least has been that of the increased independence and higher character of the Judges. 'It is,' says Mr. Foss, 'one of the glories of the Revolution that it forms a new era in our judicial history. Great was the immediate change in the administration of justice. The Bench was no longer disgraced by coarse and savage brutality, or by servile and courtly obsequiousness; the principles of law were more strictly defined, and its practice more decently conducted;

there were no longer any violent dismissals or convenient political resignations; and the Judges succeeded each other in quiet independence, scarcely ever leaving the seats they occupied till incapacitated by infirmity, or removed by death.'

The name of Somers towers above them all; but we ought not to forget Sir Robert Atkyns, Chief Baron of the Exchequer, who at an earlier period boldly resisted King James's attempt to dispense by his prerogative with penal statutes, and who had a high reputation as a lawyer. Lord Somers was the son of an attorney, and born at Worcester in 1650. While toiling laboriously in his profession, he found time for literature, translating Ovid, and publishing pamphlets, or, as they were then called, tracts. The story is well known that when Pollexfen was offered a retainer to defend the Seven Bishops, he refused to accept it unless a brief was also given to Somers, and the objection taken to his being employed was that he was too young and obscure. And yet he was then thirty-seven years old, and must have had considerable business in the Courts, as is proved by the compliment paid to him by Lord Chancellor Nottingham some years before, who, when Somers modestly declined to take up the time of the Court going over the same ground as had been occupied by his leaders, said, 'Pray go on, sir; I sit in this place to hear everybody; you never repeat, nor will you take up any time, and, therefore, I shall listen to you with pleasure.' He was one of the managers of the Conference with the Lords on the question of retaining the word 'abdicated' with reference to James's abandonment of the throne, and was appointed Lord Keeper in 1693, and afterwards received the title of Lord Chancellor with a peerage in 1697. When the Tories came into power at the latter end of William's reign, Lord Somers was forced to resign; and next year he was impeached by the House of Commons on various charges, one of which was that he had advised the Treaty of Partition of the Spanish Monarchy, 'whereby large territories were to be given up to France;' another, that he obtained extraordinary grants for his own benefit; another, that he had granted a commission to the sea rover, William Kidd, on the understanding that he was to share in the profits of his

piracy ; and, lastly, that he was guilty of maladministration in his Court by delays and illegal orders. He gave in full and satisfactory answers to all these charges, and the proceedings against him were ultimately stopped by the dissolution of the Parliament, in December, 1701. Under Queen Anne, he became Lord President of the Council, and held the office for two years. He survived the queen two years, and held a place in the Cabinet without office under George I., dying at last, at the age of sixty-six, of a paralytic affection, which reduced him to a state of imbecility. Few men have had the good fortune to be *omni laude cumulati*, like Lord Somers. Swift, indeed, when he turned Tory, abused him ; but Swift, while a Whig, had extolled him as the Aristides of his country. A great lawyer, a ripe scholar, a pure-minded patriot, and a statesman, he descended to the grave, beloved and lamented by his country, and its verdict of applause has been ratified by posterity.

By far the most conspicuous figure on the Common Law Bench in William's reign is Chief Justice Holt, whose patent was dated April, 1689. He presided over the King's Bench for twenty-one years, that is, during the whole of the reign of King William, and two-thirds of the reign of Queen Anne, 'during which period,' says Mr. Foss, 'the administration of justice was distinguished by learning, sagacity, and integrity, and freed from the suspicion of private bias or courtly dictation ; most effectually securing the confidence and commanding the applause of all parties, whether Whigs or Tories, from the contrast it presented to the experience of the preceding thirteen years.' He seems to have been the model of a great and upright magistrate, whom neither fear nor favour could move a hair's breadth from the path of duty. In one instance his regard for strict law has, we think, justly exposed him to the charge of inhumanity. On the trials of Charnock and others for high treason, the prisoners applied to have counsel allowed to speak for them, under the provisions of an Act then recently passed, which was to come into operation the very next day. But the Chief Justice refused, on the ground that he was bound by the law as it then stood ; and he also refused to put off the trial. It is impossible not to censure such conduct in the strongest terms,

and it remains an indelible blot upon the otherwise stainless character of Holt. Perhaps by nothing is he more popularly known than the story of his famous answer in the Aylesbury case, when he is said to have told the Speaker of the House of Commons, who came to the Court of Queen's Bench with a *posse comitatus* of members to summon the Chief Justice to the bar of the House, 'I sit here as an interpreter of the laws, and a distributor of justice, and if the whole House of Commons were in your belly I would not stir one foot.'

But, alas! for the veracity of anecdotes. It is extraordinary how few of them that are current in the world will stand the test of investigation. Lord Campbell, in his 'Lives of the Chief Justices,' has shown that the story cannot be true, and that no such proceeding ever took place. It is, we believe, impossible now to ascertain the cause and origin of such a remarkable apostrophe being attributed to the Chief Justice, which has been handed down with a circumstantiality that has all the appearance of truth. On the removal of Lord Somers, Holt was pressed to accept the Great Seal, but he declined the honour, excusing himself by saying 'that he never had but one Chancery cause in his life, which he lost; and, consequently, could not think himself fitly qualified for so great a trust.'

The eighteenth century is not distinguished by many great judicial names. Lords Talbot, Hardwicke, and Camden, in Equity, and Lord Mansfield in Common Law, are splendid exceptions to what we must consider upon the whole the respectable mediocrity of the Bench. But we ought not to forget Mr. Justice Blackstone, whose 'Commentaries on the Laws of England,' written with the profound learning of a lawyer and the grace of an accomplished scholar, entitle him to the lasting gratitude of the profession and the public, and who was also a most distinguished judge; nor Mr. Justice Buller, whose reputation for legal knowledge, although somewhat of the narrowest kind, has never been surpassed, and whose character for impartiality and acuteness was such, that it was said of him that no person if guilty would choose to be tried by him, but all persons if innocent would prefer him for their judge. The beginning of the century opened gloomily for the law. A Lord Chancellor was impeached and found

guilty of corruption. We are not going to defend Lord Macclesfield, who made a vicious system worse by the sordid and extortionate way in which he profited by it, but in fairness it must be remembered that the crime of selling offices in his Court, of which he was convicted, was a gangrene of long standing, and had been practised time out of mind by his predecessors. Mr. Foss says with perfect truth, 'The sale of the lucrative offices of the Court of Chancery was a subject of notoriety, and was considered as part of the legitimate profit of its heads, and had even been in some sort recognised by Parliament.' Nor was the practice confined to the Courts of Chancery even after the Revolution. Luttrell mentions in his Diary that a philazer's place had fallen to Chief Justice Treby in 1695, and another in 1696, 'worth 1,000*l*.' Lord Chancellor Harcourt and Lord Chancellor Cowper both received considerable sums for the appointments of Masters in Chancery, and it was only in consequence of the insolvency of one of such Masters who had ruined himself in the South Sea Bubble, that the iniquity of the system was brought to light and Lord Macclesfield was condemned. The articles of impeachment charged him with selling offices contrary to law, and with taking extortionate sums for them, knowing that the payment was defrayed out of the suitors' money. The gist of the offence in his case was the extortion. He had increased the prices of offices in his gift so enormously that it was almost impossible for the holders to reimburse themselves, or even pay the amount, without making an improper use of the money of which they were the deposites. 'That he employed an agent,' says Mr. Foss, 'to bargain for him and to higgler about the price, there is no doubt; and that he was aware of the improper use made of the suitors' money, and took means to conceal the losses that occasionally occurred, there is too much evidence.' He was found guilty by the Lords, and sentenced to pay the enormous fine of 30,000*l*. As a proof, however, that the prices paid by the Masters for their places was considered a legitimate part of a Chancellor's profits, it deserves mention that Lord Macclesfield's immediate successor, Lord King, had a considerable addition made to his

salary, as a compensation for the loss occasioned by the stop put to the practice by the result of the trial.

The same century saw the strange spectacle of a Judge upon the Bench who had been formerly tried for murder. Spencer Cowper, a younger brother of the Chancellor, who was appointed a Justice of the Common Pleas in 1727, had, as a young man, gone the Home Circuit, and at Hertford made the acquaintance of a girl named Sarah Stout. At the Spring Assizes of 1699 he dined at her mother's house in her company. After the dinner they both left the house, but there was no evidence to show that they both left it together. Stout's body was afterwards found in the neighbouring river, and Cowper and three others were indicted for murder. There really was no evidence incriminating them worth a straw, and it is clear that the girl drowned herself from disappointed love; but owing to the feebleness and stupidity of Baron Hatsell, who tried the case, they ran some risk of being hanged; for the jury were out half an hour considering their verdict. Nothing could be more deplorably weak than the Judge's summing up, who actually on a trial for life and death concluded by saying to the Jury, 'I am sensible I have omitted many things, but I am a little faint, and cannot repeat any more of the evidence.'

We know, unfortunately, too little of Lord Chancellor Talbot to be able to appreciate the high estimation in which he was held by his contemporaries.<sup>1</sup> But the universal regret felt at his death, at the comparatively early age of fifty-three, is his best eulogium. Mr. Foss says, 'no man ever occupied the high position he had attained with more unmixed admiration; nor did the death of any great judicial dignitary ever cause so much general lamentation. . . . The purity of his life, his unblemished integrity, his humanity to the distressed, his liberality to all, his gentleness of manners, his urbanity, cheer-

<sup>1</sup> Lord Campbell says of the late Lord Dynevor, a descendant of Lord Chancellor Talbot, 'This venerable nobleman is in possession of all the Chancellor's papers, but declines to allow any use to be made of them, which seems to me very strange, as I am sure that nothing can appear among them that would not be for the honour

of his ancestor. . . . I make this complaint only as an apology for not being able to tell more of the private history of Lord Chancellor Talbot, which, perhaps, might have been as full and as interesting as that of Lord Chancellor Cowper.—'Lives of the Chancellors,' vol. iv. p. 687.

fulness and wit, gained him so many friends, and were so universally recognised, that he not only escaped the vituperation of political writers during his life, but both parties after his death vied with each other, both in prose and verse, in unqualified encomium on his character.' Lord Campbell says of him, 'As an Equity Judge, Lord Talbot exceeded all the high expectations which had been formed of him. In my long journey from the reign of Ethelred to that of George IV., I find this Chancellor alone without an accuser, without an enemy, without a detractor, without any one from malice or mistake to cavil at any part of his character, conduct, or demeanour. . . . He never even incurred a suspicion of corruption in the disposal of offices, or of undue influence in his decrees.'

If, however, we have reason to regret the want of details for the complete life of such a man, it is with him that our regret ceases. Succeeding Chancellors and Chief Justices and Judges of whom we care to know anything have so often sat for their portraits, that we confess when we see or hear of a new biography of any of them, we feel something like Sir Walter Scott's dog, which used to run away with a growl when he saw a painter enter his master's room with an easel and a brush in his hand.

To say nothing of Lord Campbell's 'Lives,' and Lord Brougham's vigorous sketches, Roscoe, and Welsby, and Harris, and Twiss, and Townshend, have made us familiar with the characters in their strength and in their weakness, of Hardwicke, and Camden, and Mansfield, and Thurlow, and Wedderburn, and Erskine, and Eldon, and Ellenborough; and we seem to know all about them, almost as well as if they were our contemporaries.—Hardwicke, who held the Great Seal longer than any of the Lord Chancellors except three, who was one of the most eloquent orators of his day, and of whom it was said that, 'when he pronounced his decrees, Wisdom herself might be supposed to speak.'—Camden, the friend and colleague of Chatham—the popular judge, whose portrait was placed in the Guildhall, with a Latin inscription by Dr. Johnson, designating him as the zealous supporter of English liberty by law.—Mansfield, the founder of our commercial law, who tempered with the good sense of

equity many of the harsh and crabbed principles of the common law, and of whom Lord Thurlow used to say that 'ninety-nine times out of a hundred he was right in his opinions and decisions, and when once in a hundred times he was wrong, ninety-nine men out of a hundred would not discover it. He was a wonderful man.'—Thurlow, with his Jupiter Tonans look, and an intellect that put Johnson on his mettle. 'I honour Thurlow, Sir,' said he; 'Thurlow is a fine fellow; he fairly puts his mind to yours.'—Wedderburn—the ingenious reasoner and brilliant speaker,<sup>1</sup> who attained the highest prizes of the legal and political career, yet died a mere despised and disappointed courtier, because he had no real dignity of character.—Erskine, the great orator of the English Bar, but a very poor judge and politician.—Eldon, the most profound in his knowledge of Equity, and the most involved and obscure in his utterance of it, of all the Chancellors who have occupied the Woolsack.—And last of all, Ellenborough, with his rough manners, his masculine intellect, and his bigoted opposition to law reforms, who, when a Bill was brought in for abolishing the punishment of death in cases of stealing above the value of five shillings, said, 'My Lords, if we suffer this Bill to pass we shall not know where to stand; we shall not know whether we are upon our heads or our feet.'

Space fails us; or we should like to speak of Grant and of Stowell (whom, however, as a civilian, Mr. Foss does not include in his list), and of Lyndhurst, and of others who have more recently passed away from amongst us, or have left the Bench. We doubt whether Mr. Foss has done wisely in introducing the present occupants of the Bench. He says that he resolved to limit his account of them to little more than the formal mention of the facts already publicly given in the peerages and other periodical lists, and to avoid offering any opinion on their respective judicial merits, which it would be presumptuous in him to criticise. But such skeletons of lives are really value-

<sup>1</sup> His fierce attack upon Benjamin Franklin before the Privy Council had immense effect in exasperating the Americans against England.

Sarcastic Sawney, full of spite and hate,  
On modest Franklin poured his venal prate;  
The calm philosopher, without reply,  
Withdrew—and gave his country liberty.



less, and Mr. Foss might without any loss have reduced his nine volumes to eight.

There is no body of men in this country whom their fellow-citizens are disposed to treat with more respect and deference than the Judges, and great must be the falling off on their part before they can forfeit the homage which all are willing to pay. It is no part of our duty to instruct any Lord Chancellor in the mode of his appointments ; but when we remember that he is responsible for the choice of men to fill up vacancies on the Bench, we may, in common with all who feel the importance of the reputation of those high magistrates of the commonwealth, express an earnest hope that he will take care that the character of the Bench is not lowered. It must not be forgotten that a knowledge of law, although indispensable, is not the sole qualification of a judge. Twice every year at least each county is visited by two of the common law Judges, who, representing the Crown in its noblest office of dispenser of justice, take precedence of the highest peers, and are looked up to with reverence and awe by the populace. In them are expected not only legal learning and acuteness, but also the manners of gentlemen, and something of the accomplishments of scholars. Whether those expectations are not sometimes disappointed it is not for us to say. For integrity of conduct and absolute impartiality on the Bench the Judges of England may challenge comparison with the world.

LITERARY STYLE.<sup>1</sup>

'Fraser's Magazine,' March, 1857.

ALTHOUGH we have placed Archbishop Whately's work on Rhetoric at the head of this article, and we propose to say something on the subject of literary style, which occupies a considerable portion of his book, it is not our intention to analyse or discuss the rules of composition, so much as to exhibit some peculiarities of it amongst the writers of the present day, and call attention to some faults which, if allowed to pass unnoticed, are likely to produce mischievous effects on the future literature of England. And as the best kind of instruction is that which teaches by examples, we think we shall be doing good service to the republic of letters if we devote a few pages to the task of pointing out specimens of good, and exposing what we believe to be false and vicious, modes of style.

It cannot be said that this is either inopportune or unnecessary. We live in an age of book-making, and authors multiply so fast that it is almost a distinction not to have published. Men and women rush now-a-days into print with an alacrity which has become alarming. Nobody of the slightest note dies without entailing upon the public a biography of half-a-dozen volumes; and every tourist to Switzerland or the Rhine considers himself entitled *laisser trotter sa plume*, and send an account of his travels to the publishers. Few, however, ask themselves whether they have anything to communicate which, as regards either matter or manner, is worth imparting to the world; and our shelves groan under the weight of books which will soon be as utterly forgotten as if they had never existed. But in the meantime,

<sup>1</sup> 1. *Elements of Rhetoric*. By Richard Whately, D.D., Archbishop of Dublin. London: 1851.

2. *English, Past and Present*. By Richard Chevenix Trench, B.D. London: 1855.

some wretched varieties of style are springing up which threaten to infect our whole literature, and unless the growth is vigorously checked, posterity may suffer from the prevalence of a corrupt taste in composition, and permanent injury may be done to the noble inheritance of language we have received from our ancestors. We propose therefore to deal with the question as its importance deserves, and we shall endeavour to write with perfect fairness, although it may be in some cases with severity.

It has been well said that style is the incarnation of thought, and that *le style est l'homme* ; but we will use a more homely illustration. Style is to the subject matter very much what cookery is to food ; and the parallel might be carried into considerable detail without ceasing to be appropriate. Thus, raw meat will support life, and the culinary art is not for that purpose absolutely necessary. So mental nutriment may be extracted from heaps of undigested facts, however repulsive the manner in which they are flung together. Again, good cookery will render palatable the most uninviting food. Excellent soup is made from bones ; and we believe that M. Soyer can, at the cost of a farthing, produce a capital dish out of almost nothing. And an attractive style will throw a charm over the most unpromising subject, and rivet the attention of the reader when, without that attraction, he would turn away in weariness or disgust. But there are bad as well as good cooks ; not only cooks that give a piquant relish to ordinary food, but, as we all know to our cost, cooks who can and do spoil the choicest viands. Need we say that the best story may be spoiled in the telling, and that there are writers who possess a fatal facility for rendering whatever subject they discuss both tiresome and repulsive ?

Or, to vary the metaphor, we may compare literary to architectural style, and as the same stones in the hands of the builder will form the most beautiful or the most unsightly edifice—the Parthenon of the Acropolis or the National Gallery of Trafalgar Square—so from the same subject-matter the pen may produce the dullest or the most interesting book.

So great is the success and so brilliant the reward of an attractive style, that it is to us a matter of astonishment that more earnest endeavours to acquire it are not made by those

who aspire to the dignity of authorship. A good style will secure to a work a favourable reception with the public, much more than in proportion to what its merits in other respects deserve. There are some books—few indeed in number, we admit—which have been kept afloat on the stream of time, almost solely by the buoyancy of their style. And by this we do not mean merely the grammatical and proper arrangement of words in each sentence, but the due relation of sentences to each other. A rhythmical structure ought to exist, not only in the separate but in the collective periods; and the warp and woof of the entire texture should be so woven as to preserve continuity of pattern, and produce the effect of an harmonious whole. It is the charm of his easy, natural, unaffected manner, which still maintains Hume at the head of English historians, nor do we think he is likely to be displaced. We may accuse him of unfairness and partiality, and convict him of inaccuracy, but the verdict will be, as the French say, guilty under extenuating circumstances, and the extenuating circumstance in the case of Hume is his style. The shallow morality of Paley may be, and we hope is, exploded as the philosophy which is to train up the youth of England in the ways of virtue and truth; but his works are models of composition, and will be read with delight by those who disapprove his doctrines but are fascinated by the clear transparency of his style. In his ‘Aids to Reflection,’ Coleridge expresses in enthusiastic terms his admiration of the manner, while dissenting from the matter, of Paley. ‘How gladly,’ he says, ‘would I surrender all hope of contemporary praise, could I even approach to the incomparable grace, propriety, and persuasive facility of his writings.’ Cobbett, again, is an author whose style will always secure for him a distinguished place amongst English writers. Those who dissent most from his political views, and care nothing for the opinions of the arch-radical, may read with delight, and derive instruction from, the works of one who was perhaps the most vigorous writer of Saxon English that can be found in the whole range of our literature. He knew how to put forth the utmost strength of his native tongue, and whatever he wrote is distinguished by a racy, sinewy, and idiomatic style. But it has one conspicuous blemish. It is defaced by an immoderate use of italics.

This is a great and frequent fault. They are intended to supply the place of emphasis in speaking, but the whole force is lost when they are employed too constantly and without necessity.

Men doubt because they stand so thick i' the sky,  
If they be stars that paint the galaxy.

In Cobbett's pages they are as thickly strewn as leaves in Vallombrosa, and appear like ugly finger-posts telling the reader what path he must pursue and to what objects he must pay attention. A writer ought to trust to the collocation of his words to mark the emphatic parts of his statement, and not perpetually put up notices to point out his meaning: and it is curious that Archbishop Whately should so often fall into the same mistake; for no author with whom we are acquainted less requires such factitious aid. His style is pellucid to a remarkable degree, and none but those who are wilfully blind or hopelessly stupid can misunderstand what he says. He has a wonderful power of apt and happy illustration, drawn chiefly from images of external nature. And this gives a liveliness and force to his style which make every subject which he discusses not only interesting but clear to the dullest comprehension.

We may instance also the Letters of Cowper, and the works of Southey and Washington Irving, as examples of what may be effected by charm of manner. And as we have mentioned the best of American writers, we are tempted to quote a single passage as a specimen of his style. It is, we think, exquisitely beautiful, and we know not where we can find a more affecting image of that most sorrowful of all sorrowful things, a Broken Heart:—

She is like some tender tree, the pride and beauty of the grove, graceful in its form, bright in its foliage, but with the worm preying at its heart. We find it suddenly withering when it should be most fresh and luxuriant. We see it drooping its branches to the earth, and shedding leaf by leaf until, wasted and perished away, it falls, even in the stillness of the forest; and as we muse over the beautiful ruin, we strive in vain to recollect the blast or the thunderbolt that could have smitten it with decay.

Style, in fact, is an alchemy which can transmute the basest metal into gold. It is to the writer what manner is to the individual—that by which we are at once either attracted

or repelled; and the most interesting subject may be so handled as to inspire the reader with nothing but disgust.

We may illustrate this by an example on a large scale. No one who is at all competent to form a judgment on the question, can doubt that in point of *calibre*—and as destined to influence the speculations and opinions of men on the most important subjects that can occupy the human mind—the prose literature of Germany is superior to that of France. But its momentum is impeded, and the number of its readers sensibly narrowed, by the astounding heaviness and desperate clumsiness of its style. And, we may remark in passing, there seems in this to be almost a providential safeguard, if we consider the nature and tendency of much that is published in that vast hive of busy thinkers and laborious writers. Mr. De Quincey, in one of his delightful Essays, which have within the last few years been collected and published in America, and are now *at last* in the course of publication in England,<sup>1</sup> thus speaks of German composition:—

Whatever is bad in our own ideal of prose style, whatever is repulsive in our own practice, we see there carried to the most outrageous excess. Herod is out-Heroded, Sternhold is out-Sternholded, with a zealotry of extravagance that really seems like wilful burlesque.

Its chief characteristics are involution and prolixity. The sentences are of suffocating length, and they are coiled together, parenthesis within parenthesis, like the folds of a monstrous snake, so as to bewilder and confound the reader. Instead of breaking up his matter into small and manageable pieces, in the shape of short and readable paragraphs, a German writer thinks it enough to quarry it out in an unwieldy mass, and gives himself no trouble about its form, structure, or polish. Indeed, we doubt if he ever bestows a thought upon the manner of saying anything that comes uppermost in his mind. But what man of woman born, not a German, can digest a book made up of passages, each varying in length from twelve to twenty or thirty lines (we have counted so many)—unrelieved by a single break, even so much as a semicolon—so that long before the end of the paragraph is reached, the memory has forgotten the introductory part, which can alone render the meaning intelligible? Of

<sup>1</sup> This was written in 1857.

Kant it is said, that his sentences have been measured by a carpenter, and some of them run two feet eight by six inches. A chief cause of this frightful cumbrousness is the attempt to embrace, in one grasp as it were, and present to the reader at one view all the qualifications, limitations, and exceptions of a subject, before he has time to form an idea of it, which, without those qualifications, limitations, and exceptions, would, in the writer's judgment, be erroneous. Hence follows that discompounding of words—that tearing asunder of prepositions from their verbs, and that aggregation of subsidiary sentences, which make a Chinese puzzle of a large part of the prose literature of Germany.

It is this careless disregard, or rather positive contempt, of composition, which renders it so repulsive to foreigners, and deters even those who are accurately acquainted with the language from reading works which would otherwise invite, and in many instances well repay, perusal.

In direct opposition and contrast to the heavy lumber-wagon of German, is the light, quick post-chariot of French style. This corresponds also with, and is partly the effect of, certain well-known traits of the national character. No people have carried the art of conversation to such perfection as the French, and with none is it felt to be so much a social necessity. Conversation, as distinct from monologue, is more practised and better understood in France than in any other country in Europe. But this, of itself, requires and produces brevity of expression. It rests on the give-and-take principle, and is absolutely opposed to long-winded monopoly of talk. And that happy faculty of dexterous arrangement which distinguishes the nation, and which is so remarkably exhibited by French soldiers in a campaign, appears also in the neatness and accuracy of French style.<sup>1</sup> We will not go so far as Mr. De Quincey, who asserts that 'such a thing as a long or an involved sentence could not be produced from French literature, though a Sultan were to offer his daughter in marriage to the man who should find it;' but certainly the oc-

<sup>1</sup> We remember visiting the citadel of Antwerp shortly after its siege and capture by the French in 1832, and we were struck by the tasteful way in which a little wicker gate had been arranged

at the extremity of a covered sap through which the storming party was to have rushed, if the place had not surrendered immediately before the intended assault.

currence is so rare as almost to justify the reward proposed for the discovery.

In English Literature, on the contrary, there would be no difficulty in finding such sentences in abundance. Carelessness about style has been a national failing of a very old date; and it has its origin in one of the most marked features of our character. We pride ourselves upon being a practical people; and, provided that a given end of utility is attained, we are too apt to disregard the means by which it is accomplished. This is strikingly shown in the architecture which prevailed in England until the last few years, when happily we may date the commencement of a better taste. The main object of houses is to provide shelter and comfort, and of churches to furnish accommodation. And what could be more miserable than the style of the houses and churches which were built during the last two hundred years? To say that they were ugly, but faintly expresses the utter ignorance or contempt of all the laws of architecture which they ostentatiously displayed. Beauty and grace, and harmony and proportion, were things almost unknown to our builders; and the consequence has been such an array of unsightly structures as gives positive pain to the eye that has been instructed in a better school.

To revert to our Literature. It would be difficult to name an English writer of the seventeenth century who in point of correctness will bear comparison with the *prosateurs Français* of the same period. We are not now speaking of eloquence, for in this we can boast of a proud pre-eminence. Neither Bossuet nor Massillon nor Bortaloue can be put in competition with our own Jeremy Taylor. And many passages of Milton's 'Areopagitica,' or his 'Reformation in England,' and some also of the 'Hydriotaphia,' or 'Urn Burial' of Sir Thomas Browne, are loftier in thought and grander in expression than anything that can be found in the whole literature of France. But as regards harmony of construction, attention to grammar and grace, and polish and accuracy, and all that betokens finish in composition, the French writers of that age are far superior to the English. There is hardly a sentence in Bossuet or Pascal which is not perfectly good French even at the present day. A word or two may have become obso-



lete or changed in meaning ; but there are no solecisms in grammar, and there is no slovenliness of construction. The case, however, is very different with our own authors ; and we are perhaps hardly aware how often they offend in both these respects, until our attention is specially directed to the subject. In truth, the great English writers of the seventeenth century seem to have despised composition as an art, and they sometimes remind us of the story of the proud old German emperor who, when corrected at the council-board for a *lapsus linguæ* which he had just committed in defiance of Priscian, struck his hand fiercely on the table and exclaimed, '*Ego sum rex Romanus et super grammaticam !*' Giants indeed they were in intellectual strength, but they poured out the fulness of their thoughts without troubling themselves as to the form in which they were expressed. And it must be borne in mind that the English language was in an unfixed and transitional state for a long period after the revival of letters had taken place under the united influence of the printing-press and the Reformation. It was uncertain whether the Latin or the Saxon element, which were struggling for the mastery, would predominate ; and every writer thought himself at liberty to coin 'long-tailed words in 'osity and 'ology,' without reference to the genius of the language, or their fitness to be adopted as members of the Anglo-Saxon family. In his epistle dedicatory to his 'Rival Ladies,' addressed to Lord Orrery, Dryden says, 'I have endeavoured to write English as near as I could distinguish it from the tongue of pedants and that of affected travellers ; only I am sorry that, speaking so noble a language as we do, we have not a more certain measure of it as they have in France, where they have an Academy erected for that purpose, and endowed with large privileges by the present King.' Nothing shows more plainly the little attention that was paid to style, than the way in which the finest passages are often marred by the introduction of common colloquial and even vulgar expressions. And here we would carefully distinguish between terms which have *become* degraded by lapse of time, and those which never had an elevated use. We stumble upon them, in reading the old English classics, as unexpectedly, and regard them as much out of place, as *boulders* which have been torn from their

native and naked rocks, and transported by an unknown agency into the midst of fields smiling with flowers and teeming with luxuriant vegetation. Thus Barrow talks of a '*pat* allusion to a known story;' and we not unfrequently find in his noble sermons, so full of heart-stirring eloquence, such passages as the following:—'It may also be expedient to put the world out of conceit that all sober and good men are a sort of such lumpish or sour people that they utter nothing but flat and drowsy stuff.'

Nor indeed was it until a comparatively late period that some of the commonest and most elementary rules of grammar, as now observed, found general acceptance with even the best authors. For instance, far down into the last century, the auxiliary verb was joined to the preterite, instead of the past participle; and in fact the distinction between the two was almost disregarded.

It is, however, folly to imagine that excellence in literary composition can be attained without care and labour. Cobbett indeed has laid down the rule—'Never think of mending what you write: let it go: no patching. As your pen moves, bear constantly in mind that it is making strokes which are to remain for ever.' But independently of the fact that the latter part of this advice seems to nullify the former—for surely nothing that is destined for immortality can be produced by man without the *improbis labor* which is one of the conditions of human excellence—what Cobbett here says must be taken with an important qualification. It is quite true that when a good style is *once formed*, it may be best to write without thinking much about it, lest the rule that *ars est celare artem* should be violated; but until that is the case, too much attention can hardly be paid to the choice of words and collocation of sentences. An expert swimmer enjoys the exercise without bestowing a thought upon the mechanical action of his limbs; but he who plunges into deep water without having first learned how to swim, makes a few awkward struggles, and then finds his way to the mud at the bottom. Nor do we think that in any case it is safe to dismiss altogether care about the manner of composition. And the example of great writers proves the truth of what we assert. It is said that the beginning of Plato's '*Republic*' was found written in

his tablets in a great variety of ways ; and yet Plato is an author who has never been surpassed in the beauty and transparency of his style. Nicole tells us that Pascal frequently spent twenty days in the composition of a single Provincial Letter, and sometimes commenced the same letter seven or eight times before he satisfied himself with the result. And Voltaire used to keep before him on his table, when engaged in the task of writing, the 'Petit Carême' of Massillon and the tragedies of Racine.

We wish, therefore, that more pains were taken than has been the custom in our schools and colleges to teach habits of correct and graceful English composition. It is indeed wonderful how much this has been neglected, and to what a disproportionate extent the time and attention of the young have been devoted to the acquisition of a minute and critical knowledge of two dead languages, without help or instruction in the study of their own. Not that we mean for a moment to undervalue the advantages of accuracy in classical scholarship, which is nothing unless it is accurate ; but we may say to those charged with the responsible office of education, 'This ought ye to have done, and not to have left the other undone.' And indeed the two are not only not opposed, but the one is perhaps the best mode of acquiring the other. Translations from the classic authors are of admirable use in forming habits of correct composition, if what ought to be considered good translation is properly understood. By this term we do not mean a bald, stiff rendering of the original—literally 'upsetting it' (*übersetzung*) as the Germans call it—but choosing always the most appropriate and equivalent word, giving idiom for idiom, and clothing the sentences in an English, and not in a Greek or Latin dress. Another useful method is to require students to write letters or narratives on easy familiar subjects—not themes or formal essays on Virtue or Happiness, or the *Summum Bonum*, which invariably produce a weak, stilted, and inflated style. They should always bear in mind the well-known answer said to have been given by an eminent prelate to a young clergyman who asked him for advice as to the composition of a sermon—'Read over what you have written, and whenever you come to any passage which you think particularly fine—strike it out.'

Nor need there be any apprehension lest attention to rules and imitation of good models in learning the art of composition, should produce a monotonous uniformity of style. Characteristic differences will insensibly arise, having their origin in the separate constitution of each writer's mind, the individuality of which will be preserved in the expression of his thoughts, just as differences in handwriting exist amongst those who have been taught by the same master.

Indeed, every author who has any originality of thought, and whose works are worth reading or remembering, has a mode of expression peculiar to himself. He paints, so to speak, after his own manner. The style of Isaiah is not the style of Ezekiel or Jeremiah; and St. Paul differs in the character of his writings from the other apostles, as much as—to use his own beautiful simile—one star differeth from another star in glory. His abrupt transitions, his long parentheses, his vehement adjurations, have no counterpart in the Epistles of St. Peter or St. John. Those two magnificent chapters, the fifteenth of the 1st Corinthians, and the eleventh of Hebrews, the one on the Resurrection and the other on Faith, could only have been written by the great Apostle of the Gentiles.

It has been so in all ages of the world. If we turn to the two earliest historians of Greece whose works have come down to us, Herodotus and Thucydides, separated in point of time by less than a single generation, we see a difference in style which can only be explained by a difference in the mental idiosyncrasy of the writers. The gossiping, conversational narrative of the one, is the exact reflex of a mind which looked with almost childish wonder upon whatever was strange in nature or in art, and devoured with credulous avidity the tales which were sometimes palmed off upon the Halicarnassian traveller. In Thucydides we see thoughts struggling to express themselves in a language whose wondrous strength and flexibility were not yet known, and which was not sufficiently developed to respond fully to the call of the deep-thinking and serious historian. But independently of this, it cannot be denied that Thucydides violates the rules of grammar in a way which admits of no excuse, and which can only be explained on the supposition that he was too intently occupied with the importance of his subject—that great war in which he had

himself been an actor and a sufferer—to bestow much care upon the manner of his narrative. Plato, again, and Aristotle, stood to each other in the relation of master and pupil, and yet what an immense difference there is between them in style! The luxuriant fulness of the one is as much contrasted with the elliptic brevity of the other, as the two kinds of philosophy which, under the names of Platonic and Aristotelian, formed separate schools, and divided the allegiance of the ancient world.

In the Latin writers we have dissimilarities quite as striking. The style of Livy is as unlike the style of Tacitus as a picture of Watteau is unlike a picture of Rembrandt or Salvator Rosa. And different from and transcending both is that of the great master of the Latin language, Cicero. But in this respect the Roman orator stands amongst his countrymen peerless and alone. Nothing can exceed the exquisite music of his periods, and the collocation of his words is so perfect, that not one of them can be changed without impairing the beauty of the sentence. If Coleridge's test of a good style is correct—namely, 'its untranslatableableness in words of the same language without injury to the meaning,'—the condition is exactly fulfilled by Cicero. To say nothing of his eloquence, his language is always that of the *urbanus vir*—the polished Roman gentleman; and the only objection that we can make to it is, that a habit of perusing his works almost unfits us for the appreciation of any other Latin prose author.

We might illustrate what we have said about the individuality of a writer's manner by going through the list of our great English authors, and pointing out the characteristics of the Divines of the seventeenth century, and of Fuller, Bacon, Milton, Clarendon, Dryden (who wrote excellent prose), Sir Thomas Browne, Burnet, Bolingbroke, Swift, Addison, De Foe, Johnson, Goldsmith, and many others, but for this we have not space. We will proceed at once to Gibbon, whose style is in many respects remarkable, and corresponds closely with the character of his mind.

Gibbon was a timid infidel, one who had not the courage openly to attack Christianity, but did all in his power to undermine it by dark insinuations feebly masked under the show of candour and impartiality. He is the great master

of the art of sneering. This is in fact the key-note of his style. His peculiar manner enables him to be unfair and disingenuous in the highest degree, if not without detection, at least without direct conviction. He never openly advances an opinion which he might find it difficult or inconvenient to defend. Instead of asserting, he insinuates, and instead of distinctly saying what he thinks, he takes refuge in some ambiguous proposition which, however, does not fail to imply his real sentiments. As Archbishop Whately has well described it, 'His way of writing reminds one of those persons who never dare look you full in the face.' Instead of taking the reader straight up to an object, he leads him to it by a circuitous and not very discernible path. The artfulness of his attack on the Christian religion consists in his apparent candour. Through the pages of his two famous chapters on that subject an insidious poison is distilled, and yet so skilfully is it mixed, that it would be difficult to select a single passage which the historian could not defend as consistent with the faith of the most orthodox believer. But the impression left, *and intended to be left*, on the mind of the reader is unmistakable, and it is adverse to the idea of the divine origin of Christianity.

What can be more unfair—we had almost said malignant—than the words in parenthesis in the following passage from a note at the foot of one of his pages? The italics are our own:—

Apollonius of Tyana was born about the same time as Jesus Christ. His life (*that of the former*) is related in so fabulous a manner by his disciples, that we are at a loss to discover whether he was a sage, an impostor, or a fanatic.

So far we have been speaking of what may be called the dishonest artifices of Gibbon's style, but its general character is that of lofty magnificence. The march of his narrative is as measured and stately as that of one of the heroes in a tragedy of Corneille. He was constantly impressed with the idea of sustaining the dignity of history. He hardly ever unbends to an anecdote, or condescends to an incident which is not in perfect keeping with the grandeur of his subject—The Decline and Fall of the Roman Empire. We do not, however, mean to say that Gibbon *nowhere* relaxes from this lofty reserve. He relegates to his notes many a story, 'veiled' generally, as he expresses it, 'in the obscurity of a learned language,' but not the less intended to attract attention and stimulate a prurient

curiosity. We miss, however, in the text, traits of character and points of detail. We feel a want of sympathy with the actors in the drama, who are so stiff and magnificent that we can hardly think of them as men and women of the same flesh and blood and like passions as ourselves.

Gibbon would never have ventured to introduce into his History such a passage as the following, in which Mr. Macaulay relates the joy of the populace at the downfall and approaching end of the infamous Jeffreys :—

The street poets portioned out all his joints with cannibal ferocity, and computed how many pounds of steak might be cut from his well-fattened carcass. Nay, the rage of his enemies was such that, in language seldom heard in England, they proclaimed their wish that he might go to the place of wailing and gnashing of teeth, to the worm that never dies, to the fire that is never quenched. They exhorted him to hang himself in his garters, and to cut his throat with his razor.

But we know no writer whose mode of expressing himself is more characteristic of the individual than the Duke of Wellington, who, since the publication of his Despatches, may fairly be ranked amongst authors. They are a model of soldierly simplicity. The Duke goes straight to his point, with the precision and sometimes the force of a cannon-ball. He not only always means what he says, but says what he means with a plainness and brevity which show that in more senses than one he deserves his title of the English Cæsar. We confess that when we first read the Despatches, we were not prepared to find them so correct in grammar and expression, and with so few faults which even a fastidious criticism can correct.

To show, however, how great are the varieties of style even in those who might be expected, from near relationship, and as the result of a common education, to exhibit less of difference than similarity, we can hardly cite a stronger example than that of the two brothers, Lord Stowell and Lord Eldon, than whom no two men were ever more contrasted in their modes of expression. We have no right to place either of them in the exact category of authors, but the judgments of each fill many volumes, and many of them were carefully written before they were delivered. Nothing can be more unlike than the style of the one is to the style of the other. It would be difficult to imagine sentences more obscure, clumsy, and involved than those of Lord Eldon ; more clear and fastidiously correct

than those of Lord Stowell. If any one doubts the fact as to the great Lord Chancellor, let him turn to the volumes of Vesey, where he will find marvellous examples of confused intricacy of expression, which repels from perusal all but those whom professional duty compels to study them.

Lord Stowell, on the contrary, is distinguished by the *curiosa felicitas* of his expression. In the arrangement of his periods and choice of his diction he was scrupulously exact, and this sometimes gives an air of quaintness to his style, as for instance in the following passages:—

They (the seamen) are threatened by the captain, who is certainly a person of lofty prerogative notions, who claims the right to carry them, and says that he can and will carry them, wherever he pleases, even to hell itself,—a very favourite place of consignment in his judgment.

I think if Mr. Tarbutt chooses to lead up an irregular dance, he cannot expect to be paid for the steps he chooses to take in it.

That is gross perversion of a very useful practice, and instead of nipping suits in the bud can only make them branch out into a new and inordinate extent of legislation.

But we turn now to the more immediate object of the present article, which is to review some of the peculiarities of style that distinguish English literature at the present period, and point out some faults which have perhaps too long been allowed to escape notice, or at all events have not received the notice they deserve. And we should naturally begin with the most voluminous author of the day, of whom and of whose great work it is wittily and tersely said in ‘Coningsby,’ that ‘Mr. Wordy wrote the history of the late war in twenty octavo volumes, to prove that Providence was on the side of the Tories.’ Need we say that we allude to Sir Archibald Alison? It is our deliberate opinion that he furnishes the most signal example of what we may characterise as *imposture* of style. And yet he may well laugh at criticism when he looks at the sale of his volumes. We know not how many editions of his ‘History’ have passed through the press, and ‘the cry is still, they come.’ He has no cause to complain that

populus me sibilat,

but he may certainly complete the quotation, and say—

at mihi plaudo

Ipse domi, simul ac nummos contemplor in arcâ.<sup>1</sup>

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<sup>1</sup> We cannot say we are surprised, but we regret to find Sir A. Alison so inaccurate a scholar. He seems to be quite ignorant of the rules of Latin



As one of the laws of the association of ideas is contrast, the name of Alison suggests that of Macaulay. He is in some respects the most remarkable writer of his time in England, and beyond all doubt a consummate master of the art of composition. We do not think that in the whole of the volumes of his History which have yet appeared, there is a single carelessly constructed sentence. In the power of painting with words he is almost without a rival. From musty pamphlets, forgotten letters, and mouldy records, he picks out some striking or picturesque incident—a grain of gold in a heap of rubbish—and blends it in the most telling and effective manner with his description or narrative. Some of his passages are such as could only have been written by one who had the eye of a painter and the soul of a poet. We need not quote examples which are familiar to all, such as his description of the Pass of Glencoe and his tale of the horrible massacre there, but we may point out one or two passages which are more likely to escape attention, but in which the careful hand of the artist is equally visible. With what an exquisite touch is the picture of Queen Mary's funeral drawn:—

The day was well suited to such a ceremony. The sky was dark and troubled, and a few *ghastly* flakes of snow fell on the black plumes of the funeral car.

In defending the provisions of the Toleration Act as having put an end to religious persecution, an ordinary writer might have mentioned that that persecution had driven thousands beyond the sea. But let us see how Mr. Macaulay expresses the same thought:—

They put an end at once and for ever . . . . . to a persecution . . . . .

prosody, and frequently misquotes the commonest passages of the best known authors. In vol. i. p. 45 of his recent *History* we find the following laughable instance!—The poet has said—

*Dedicisse fideliter artes*

*Emollit mores nec sinit esse feros.*

And that is undoubtedly true. But observe he has not said '*nec sinit esse pravos.*' And that also is undoubtedly true, and for a very good reason unknown to Sir Archibald. If the poet had said *pravos* he would have been guilty of a false quantity. *Dedicisse* for

*didicisse*, is also a mistake. Again, at p. 161 of the same volume we find the following:—'Virgil never showed his knowledge of the human heart more than when he wrote the line—

*Gnarus, furens quid femina possit.'*

Virgil wrote no such line, for he was not in the habit of making false quantities. What he did write was—

*Notumque, furens quid femina possit.*

Sir A. Alison also misquotes German, and even English, to say nothing of some extraordinary mistakes in French.

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which had driven thousands of those honest, diligent, and God-fearing yeomen and artizans who are the true strength of a nation, to seek a refuge beyond the Ocean *among the wigwams of Red Indians and the lairs of panthers.*

With what dramatic effect he tells the death of John Temple, Secretary-at-War, the eldest son of Sir William Temple, who persuaded William III. to entrust Hamilton with the negotiation which was to secure the submission of Tyrconnel in Ireland. It is like a scene in a novel. While the coffee-houses were wondering how the King could have been duped by Hamilton and Tyrconnel—

A gentleman went down to the Temple Stairs, called a boat, and desired to be pulled to Greenwich. He took the cover of a letter from his pocket, scratched a few lines with a pencil, and laid the paper on the seat, with some silver for his fare. As the boat passed under the dark central arch of London Bridge, he sprang into the water and disappeared. It was found he had written these words. . . . There was no signature, but the body was soon found, and proved to be that of John Temple.

But as the great reviewer must submit to be himself reviewed, we must express our conviction that the very brilliancy of Mr. Macaulay's style is in some respects its defect. The temptation to write effectively sometimes gets the better of his judgment. His epithets are so strong that they are apt to give an exaggerated idea of an incident or a character. He is too vehement and intense to be safe. His pictures want repose. The light flashes on every point; and we would willingly sacrifice the most marked antithesis and the most epigrammatic point, for the sake of descriptions which, if less striking, might be more fair and just. If for a moment we might venture to imitate his style, we should say that Mr. Macaulay loves Dutch William with a love passing the love of woman, and he hates Marlborough with a hate rivalling the hate of a personal enemy. This inevitably leads to exaggeration, and exaggeration in drawing the features of a character produces simply distortion. The power of his style is, however, beyond question admirable. He can make the most prosaic fact subservient to the production of the most powerful effect. He startles the reader, who remembers that the historian is speaking of Luxemburg and William III. of England, by telling him that

It is probable that, among the hundred and twenty thousand soldiers who were marshalled round Neerwinden under all the standards of Western Europe the

two feeblest in body were *the hunch-backed dwarf* who urged forward the fiery onset of France, and *the asthmatic skeleton* who covered the slow retreat of England.

There are two marked peculiarities of Mr. Macaulay's style which we must notice before we leave him. The first is the brevity of his paragraphs. His short, quick periods fall upon the ear like the rapid firing of a well-served battery. The second is his habit, if we may keep up the metaphor, of *double-shotting* his sentences. By this we mean his fondness for repeating the principal or emphatic word of the period, and avoiding as much as possible a substitute or an equivalent. We know no writer who has so little affection for the pronoun, or who so seldom makes it do duty for the noun. This peculiarity often gives force and spirit to a passage, but it is used so constantly that it becomes at last a mannerism. A few examples will give a better idea of this habit than any definition or explanation can do.

Speaking of Marlborough's position as regards William, he says—

It might therefore have been expected that he would serve his new master with *fidelity*; not indeed with the *fidelity* of Nottingham, which was the *fidelity* of conscientiousness; not with the *fidelity* of Portland, which was the *fidelity* of affection; but with the not less stubborn *fidelity* of despair.

Again :—

For all our jurists regarded Ireland as a mere colony—more important indeed than *Massachusetts*, *Virginia*, or *Jamaica*, but, like *Massachusetts*, *Virginia*, or *Jamaica*, dependent on the mother country.

Of Madame de Maintenon we are told that she had 'a *tact* which surpassed the *tact* of her sex, as much as the *tact* of her sex surpasses the *tact* of ours.' The Court of Avaux 'pined for nobility with a *pinning* at once pitiable and ludicrous.' At the siege of Mons,

All the implements of war had been largely provided by Louvois, *the first of living administrators*. The command was entrusted to Luxemburg, *the first of living generals*. The scientific operations were directed by Vauban, *the first of living engineers*.

If Mr. Macaulay wished to say that Mr. but not Mrs. Smith went to Kensington in an omnibus, he would express it thus: 'Mr. Smith rode to Kensington in an omnibus; Mrs. Smith did not ride to Kensington in an omnibus.'

Great as is his power of composition, not even Mr. Macaulay

can compete with the historian of the Peninsular War in the description of a battle. In this, Sir William Napier is without a rival. We believe he is the first writer, in this country at least, who made the story of a campaign really interesting. And this arises from the individuality of his style. Instead of cold generic statements of military operations in the mass, which perplex and confuse the reader, he gives us life-like details, and makes us in part sharers in the excitement of the strife. We have the whole scene like a picture before us. As we read his vivid narrative we seem to hear the tramp of the charging squadrons, the sharp rattle of the musketry, and the booming thunder of the artillery.

Jam nunc minaci murmure cornuum  
Perstringis aures : jam litui strepunt :  
Et fulgor armorum fugaces  
Terret equos equitumque vultus.

One great cause of his success as a writer is that his descriptions are drawn from personal experience. He has seen what he relates. In the great events which his pen records he has been himself no insignificant actor ; he has witnessed the collision of hostile armies ; he has known

The triumph and the agony,  
The rapture of the strife ;

and has heard 'the earthquake voice of victory' mingle with the shrieks of the wounded and the groans of the dying.

What can be more animated than the following account of the battle of Albuera :—

Such a gallant line, issuing from the midst of the smoke, and rapidly separating itself from the confused and broken multitude, startled the enemy's masses, then augmenting and pressing onwards as to an assured victory ; they wavered, hesitated, and vomiting forth a storm of fire, hastily endeavoured to enlarge their front, while a fearful discharge of grape from all their artillery whistled through the British ranks. Myers was killed, Cole, the three colonels—Ellis, Blakeney, and Hawkshawe—fell wounded ; and the Fusilier battalions, struck by the iron tempest, reeled and staggered like sinking ships ; but suddenly and sternly recovering, they closed on their terrible enemies, and then was seen with what a strength and majesty the British soldier fights. In vain did Soult with voice and gesture animate his Frenchmen ; in vain did the hardiest veterans, breaking from the crowded columns, sacrifice their lives to gain time for the mass to open out on such a fair field ; in vain did the mass itself bear up, and, fiercely striving, fire indiscriminately upon friends and foes, while the horsemen, hovering on the flank, threatened to charge the advancing line. Nothing could stop that astonish-

ing infantry. No sudden burst of undisciplined valour, no nervous enthusiasm weakened the stability of their order; their flashing eyes were bent on the dark columns on their front, their measured tread shook the ground; their dreadful volleys swept away the head of every formation, their deafening shouts overpowered the dissonant cries that broke from all parts of the tumultuous crowd, as, slowly and with a horrid carnage, it was pushed by the incessant vigour of the attack to the farthest edge of the height. Then the French reserve, mixing with the struggling multitude, endeavoured to restore the flight, but only augmented the irremediable disorder, and the mighty mass giving away, like a loosened cliff, went headlong down the steep: the rain flowed after in streams discoloured with blood, and eighteen hundred unwounded men, the remnant of six thousand unconquerable British soldiers, stood triumphant on the fatal hill.

And how terribly real is the whole description of the siege and storming of Badajos—a description which, as conveying to the mind's eye a perfect picture of the scene it intends to represent, stands unrivalled in the history of war. We can only afford space for a single extract:—

The rampants crowded with dark figures and glittering arms were on one side, on the other the red columns of the British, deep and broad, coming on like streams of burning lava: it was the touch of the magician's wand, a crash of thunder followed, and the storming parties were dashed to pieces by the explosion of hundreds of shells and powder-barrels. For an instant the Light Division soldiers stood on the brink of the ditch amazed at the terrific sight, but then, with a shout that matched even the explosion, they flew down the ladders, or disdaining their aid, leaped, reckless of the depth, into the gulf below; and nearly at the same moment, amidst a blaze of musketry that dazzled the eyes, the Fourth Division came running in to descend with a like fury.

It is curious how few great speakers have been also good writers. It would not however be difficult to assign reasons for this, if our limits permitted us to discuss the subject, but it would require a larger space than we can at present occupy. Cicero and Burke are splendid exceptions; the latter is not only the most eloquent of English orators, but, with the exception of Jeremy Taylor, the most eloquent of English authors. But Fox would never have succeeded as an historian. All the fire of his genius seems to have been extinguished when he took up his pen, and we can hardly believe that the fervid orator who delivered the speech on the Westminster Scrutiny, is the same man who wrote the History of the Reign of James II.

Mr. Gladstone is certainly no exception to the rule. He is beyond question the greatest orator in the House of Commons at the present time. Although he is perhaps too subtle a thinker, and we will add, has too conscientious a mind to

attain the highest kind of oratory, the great object of which is to persuade, by carrying as it were by storm the feelings and passions of the audience,—no one can accuse him of not being clear, pointed, and vigorous in debate ; but, on the other hand, no one can deny that he is an obscure and intricate writer. He swims graceful as a swan on the waters of parliamentary strife, but when he takes up his pen he is like the same bird when it leaves its native element and waddles awkwardly on the ground.

We will quote two passages from his ‘State in its Relations with the Church,’ either of which, from its involved style and almost studied obscurity, might puzzle an *Œdipus*.

For how, as long as the mass of men are in juxtaposition with evil as a body, should they fail to be tainted by it ; and how should its elasticity and self-propagation prove among such materials less powerful over a kindred nature, than the operation of a kindred nature over an adverse one ?

The meaning of this question, we suppose, is, How should evil, which is congenial to the nature of man, be less powerful than good, which is opposed to that nature ? But we think that even Mr. Gladstone will admit that if we are mistaken, we are not without excuse.

Again, in the next page, after saying that the inclinations of individuals are variable, and some prevail at one period and others at another, he proceeds as follows :—

But when in some general practice or law which stands for an expression of sovereign will, corroborated by the testimony of public concurrence, there is embodied some influence which favours the one and obstructs the other of these drifting tides ; this, while it secures for the sympathetic principle free scope and action under its own shelter, likewise stands as a fixed barrier against the antagonistic principle of its alternate predominance ; so that, for the most part, it is fully able, between two conflicting tendencies, to cast the balance ultimately and permanently in favour of that which harmonizes with itself.

We must leave this passage to explain itself, for we really do not understand it.

We turn next to the most popular and also the most prolific author of the day—Mr. Dickens—whose style, we suppose, is nearly as familiar to our readers as the alphabet. We think he writes too much and too fast ; and unless he takes more care than he seems to think it worth while to do so long as the shilling numbers of any new novel from his pen are sold by

thousands, we predict that he will be the destroyer of his own reputation. He has fallen into the habit of repeating himself to a degree which becomes wearisome, and his latter works have proceeded in a descending scale. That which is now issuing from the press, 'Little Dorrit,' is decidedly the worst. His tone is melodramatic throughout; and by this we do not mean the melodrama of Mr. Harrison Ainsworth, whose favourite heroes are highwaymen, and who makes robbery and house-breaking romantic; but we have in his works neither tragedy nor what used to be called genteel comedy, which really meant ordinary social and domestic life. Mr. Dickens delights in the sayings and doings of strange, grotesque, out-of-the-way people, of whom we hardly ever meet the prototypes in flesh and blood; and in every one of his tales he fastens some distinctive oddities upon two or three of his characters, and never allows them to speak without bringing out the peculiarity in the most marked and prominent manner. His portraits are in fact caricatures. He daguerreotypes, so to speak, a particular grimace, and presents it every time that the features come into view. Thus Pecksniff is always sententious and hypocritical; Micawber is always full of maudlin sentiment and emphatic nonsense; Gradgrind is always practical, to a degree that ceases to be human; Mrs. Nickleby is always parenthetical and incoherent; Mark Tapley is never tired of telling us that he is 'jolly'; Boythorn never opens his lips without being intensely and boisterously energetic; Major Bagstock always speaks of himself in the third person, as 'J. B.', 'tough old Joe,' 'Joe is rough and tough, sir!—blunt, sir, blunt, is Joe'; Uriah Heap is always 'umble,' 'very umble'; and Mrs. Gamp everlastingly quotes as her authority Mrs. Harris. Mr. Dickens has also a passion for personification, and for giving to inanimate objects all the attributes of life. We may take as an instance a passage at the beginning of 'Martin Chuzzlewit,' where he describes a gusty evening:—

It was small tyranny for a respectable wind to go wreaking its vengeance on such poor creatures as the fallen leaves, but this wind happening to come up with a great heap of them just after venting its humour on the insulted Dragon, did so disperse and scatter them, that they fled away, pell-mell, some here, some there, rolling over each other, whirling round and round upon their thin edges, taking frantic flights into the air, and playing all manner of extraordinary gambols in the

extremity of their distress. Nor was this enough for its malicious fury : for, not content with driving them abroad, it charged small parties of them and hunted them into the wheelwright's sawpit, and below the planks and timbers in the yard ; and, scattering the sawdust in the air, it looked for them underneath, and when it did meet with any, whew ! how it drove them on and followed at their heels !

Take, again, the following *extravaganza* from 'Little Dorrit :'

Mr. Casby lived in a street in the Gray's Inn-road, which had set off from that thoroughfare with the intention of running at one heat down into the valley, and up again to the top of Pentonville-hill ; but which had run itself out of breath in twenty yards, and had stood still ever since. There is no such place in that part now ; but it remained there for many years, looking with a baulked countenance at the wilderness patched with unfruitful gardens, and pimpled with eruptive summer-houses, that it had meant to run over in no time.

The two opposite poles between which Mr. Dickens constantly oscillates, are comic humour pushed to buffoonery, and sentiment carried to maudlin excess. He seems to have little conception of a well-constructed plot, and the interest in his novels is kept up by a succession of detached and shifting scenes, and the introduction of an endless variety of funny persons, while the story is left to drift on without much guidance, and take care of itself as best as it may. His characters are all exaggerations. We doubt if there is one which, as he has drawn it, occurs in real life. The substratum, so to speak, may indeed exist there, but on this he erects a superstructure so fanciful and fantastic that nature disowns the resemblance. Our readers have no doubt seen in the shop windows little grotesque figures in *terra cotta* of celebrated actors, singers, and musicians, where the head is made monstrously large in proportion to the rest of the body, and the features are ridiculously exaggerated. These forcibly remind us of Mr. Dickens's characters. He has also a marvellous talent for minute description. No Dutch painter ever depicted an interior with more servile fidelity than Mr. Dickens draws still life with his pen. His marine storeshops, his frouzy dwellings, his dull November streets, his Jews' alleys, and Jacob's islands, rival the pictures of Teniers and Ostade. But while we admire the painter we are apt to grow weary of the writer. The eye of the spectator can take in the whole of a picture at a glance, but the mind of the reader must go through the successive points of a description until it becomes fatigued



by the multiplicity of details. A favourite form or rather trick of expression with this author is circumlocution, whereby he gives an air of comic originality to the commonest incidents and most hackneyed sayings. He uses, indeed, a circuitous phraseology as frequently as any of the Barnacle family in his own Circumlocution Office. His satire is keen, but so far as we remember, is never ill-natured. He delights in showing up a foible, whether of character or manners ; and the instrument he employs for this purpose is good-humoured irony, in which he playfully says the very opposite of his real meaning. But we are now criticising the genius rather than the style of this remarkable writer ; and yet they are so intimately connected that it is difficult to separate them.

One other fault we must mention before we quit the subject, and that is his habit of pushing an idea to the extreme. He never lightly touches a subject, and then leaves it to the imagination of the reader to fill up the outline. He hugs the child of his fancy in his arms, fondles it, caresses it, forces it on our attention, and asks us to examine it until we grow tired of the display, and refuse to admire what is so perseveringly obtruded on our notice. No man ever rode a metaphor harder than Mr. Dickens. We will give one example from 'Little Dorrit.'

It occurs to him to liken an old gentleman who is a good deal under the dominion of his clerk, named Pancks, to 'an unwieldy ship in the Thames . . . . when all of a sudden a little coaly steam-tug will bear down upon it, take it in tow, and bustle off with it.' After a considerable interval, we are told that the Patriarch

rose and went to the door by which Pancks had worked out, hailing that tug by name. He received an answer from some little dock beyond, and was towed out of sight directly.

Again, three pages further on, we have :—

Pancks dined with them. Pancks steamed out of his little dock at a quarter before six, and bore straight down for the Patriarch . . . . Pancks instantly made fast to him, and hauled him out . . . . Pancks took in his victuals as if he were coaling ; with a good deal of noise, a good deal of drooping about, and a puff and a snort occasionally, as if he were nearly ready to steam away.

A page or two still further—

'Good night !' said Clennam. But the Tug suddenly lightened, and untrammelled by having any weight, he too was already puffing away into the distance.

And so it goes on chapter after chapter. We have the Tug puffing and snorting and coaling and pulling and hauling ; until we really forget that all the time it is the description of a person and not of a steamboat.

The rival of Mr. Dickens with the public is Mr. Thackeray—a very different, and in our opinion a very superior, workman in the same craft as a novelist. He belongs, however, specially to the Humourists,—that small but chosen band of writers who, from Rabelais downwards, at rare intervals have thrown out their sportive sallies to delight those who can understand and appreciate the deep meaning which may be veiled under the form of irony. After Rabelais—Swift, Sterne, and Charles Lamb have been the chief leaders of this school ; and of them all we prefer the charming author of the ‘*Essays of Elia*.’ His style often reminds us of the sweetest music produced by the lightest touch. His fine-toned irony, his subtle wit and exquisite criticism, have never been surpassed. The nicest shades and glimpses of thought are pencilled off with unrivalled delicacy of touch. His style is the perfect reflex of his own gentle and affectionate nature, which clung so warmly to and yet sported so playfully with the objects of his attachment. Well might he ask—

Sun and sky and breeze, and solitary walks and summer holidays, and the greenness of fields, and the delicious juices of meats and fishes, and society and candlelight, and fireside conversations, and innocent vanities and jests, and *irony itself*,—do these things go out with life ?

Can a ghost laugh or shake his gaunt sides when you are pleasant with him ?

And you, my midnight darlings, my Folios ! must I part with the intense delight of having you (huge armfuls) in my embrace ? Must knowledge come to me, if it come at all, by some awkward experiment of intuition, and no longer by the familiar process of reading ?

Southey’s ‘*Doctor*’ is also a delightful book of the same class. But it requires ‘audience fit though few,’ and had better not be approached by those who have no Pantagruelism in their nature, and who are like Charles Lamb’s Caledonian, with whom you ‘must speak on the square, and clap an extinguisher upon your irony, if you are unhappily blest with a vein of it. Remember you are upon your oath.’

Mr. Thackeray, however, is not always a humourist, and he *can* write without being satirical. Witness his ‘*Esmond*,’

the most carefully written of all his works, and the one in which he has most conspicuously shown that he is a complete master of style. Much as we dislike the story, it is impossible not to admire the consummate skill with which he has there imitated the best writers of the time of Queen Anne, and we can but regret that it is at best only an imitation, a spurious antique, and that the author devoted his powers to the reproduction of a style which has passed away, and to the composition of a work which must be regarded rather as a literary curiosity than a book of enduring reputation. And we may say the same of those deceptive little books of the class of 'Lady Willoughby's Diary,' 'Cherry and Violet,' and 'Mary Powell,' whose authoresses attempt to realise in prose what Chatterton tried in poetry, and palm off a style

All deftly masked as hoar antiquity,

to play tricks upon the public. But although with the aid of antique type and binding, and by means of a broad imitation of the style of the seventeenth century, these books might possibly pass with a careless reader as genuine productions of that period, they betray themselves by the absence of any distinctive peculiarities of style proper to the particular times and persons at which and by whom they profess to be written. They are in fact about as correct as a dress would be made up out of the wardrobes of a courtier of the reign of Elizabeth, and a courtier of the reign of Charles II.

In his last two novels, 'The Caxtons' and 'My Novel,' Sir Edward Bulwer Lytton has also striven for a place amongst the humourists, but we think with indifferent success. Humour is certainly not his *forte*, and no writer who was blest with the vein would have condescended to appear as the servile copyist of the manner of another. To use a nautical metaphor suggested by Mr. Dickens's steam-tug, 'The Caxtons' was laid down on the lines of 'Tristram Shandy,' and the new ship has neither the trim nor the sailing qualities of her model. But we willingly admit that, in point of simplicity and ease of style, there is in his last two works a great improvement. The style of his former novels is too stilted and high-flown, and the author, haunted with the idea of the necessity of keeping up the dignity of his subject, adopted a phraseology too

affected for the natural language of ordinary life. Take, for instance, the following passages from 'Rienzi' :—

And with scarce less eagerness he *laved* his enfeebled form and haggard face with the water that stood at hand. He now felt refreshed and invigorated, and began to *indue* his garments, which he found thrown in a heap beside the bed.

Again :—

He glanced over the slain, as the melancholy Hesperus played upon the bloody pool and the gory corslet.

Even in 'The Caxtons,' Sir Edward cannot condescend to speak of a 'hackney-coachman,' but calls him 'a ministrant of Trivia.' This may be called fine writing, but we think it is ridiculous Euphemism.

We now come to a school of writers of which the great Hierophant is Mr. Carlyle. He is, we believe, the first who introduced it into this country, having imported it—or, at all events, many of its characteristics—from Germany. We have already attempted to describe some of the features of German prose ; and with respect to the metaphysical writers in that language, we will only add what is wittily said by the Brothers Hare, in their 'Guesses at Truth,' that 'when the dry rot gets into the house of a German philosopher, his disciples pick up handfuls of the dust, and fancy it will serve instead of timber.'

In Mr. Carlyle's later style, the whole structure of his language is often in a state of contortion—

The fire in the caverns of Ætna conceal'd  
Still mantles unseen in its secret recess ;  
At length in a *volume* terrific reveal'd,—  
No torrent can quench it, no bounds can repress.

But it is not his natural manner. His 'Life of Schiller', one of his earliest works, is a well-written biography, composed in an easy, unaffected style, and entirely free from the peculiar mannerism of his subsequent works.

We will, without comment, give a few specimens of his present style, that our readers may judge of its merits for themselves.

In his 'Latter-day Pamphlets,' speaking of the necessity of reform in the administrative establishments in Downing Street, Mr. Carlyle says, 'that to clean out the dead pedantries, unrealities, indolent, somnolent impotencies, and accu-

mulated dung-mountains there, is the beginning of all practical good whatsoever ; and that

such mountains of pedant exuviae and obscene owl-droppings have accumulated in those regions, long the habitation of doleful creatures ; the old *pavements*, the natural facts and real essential functions of those establishments, have not been seen for these two hundred years past ! Herculean men acquainted with the virtues of running water, and with the divine necessity of getting down to the clear pavements and old veracities ; who tremble before no amount of pedant exuviae, no loudest shrieking of doleful creatures ; who tremble only to live, themselves, like inane phantasms, and to leave their life as a paltry *contribution* to the guano mountains, and not as a divine eternal protest against them !

The career by which Members of Parliament become Prime Ministers is thus described in 'The New Downing Street' :—

Poor wretches, their industry is mob-worship, place-worship, parliamentary intrigue, and the mutiple  $\times$  art of tongue-fence ; flung into that bad element, there they swim for decades long, throttling and wrestling one another according to their strength,—and the toughest or luckiest gets to land and becomes Premier. A more entirely unbeautiful class of Premiers was never raked out of the ooze and set on high places, by any ingenuity of man.

Huge inorganic England, nigh choked under the exuviae of a thousand years, and blindly sprawling amid Chartisms, ballot-boxes, prevenient graces, and bishops' nightmares, must, as the preliminary and commencement of organisation, learn to *breathe* again,—get 'lungs' for herself again, as we defined it.

The literature of the present day is defined thus :—

Canaille of all the loud-sounding levities, and general winnowings of Chaos, marching through the world in a most ominous manner ; proclaiming, audibly if you have ears : 'Twelfth hour of the Night ; ancient graves yawning ; pale clammy Puseysisms screeching in their winding-sheets ; owls busy in the City regions ; many goblins abroad ! Awake ye living ; dream no more ; arise to judgement ! Chaos and Gehenna are broken loose ; the Devil with his Bedlams must be flung in chains again, and the Last of the Days is about to dawn !' Such is literature to the reflective soul at this moment.

Of the spasmodic style, with certain modifications peculiar to himself, Mr. Emerson, the American author, affords a conspicuous example. His constant effort is to be smart, telling and epigrammatic, and he will rather talk nonsense than not appear to be witty and original. Thus, in his 'English Traits' he tells the world that in Great Britain 'a manufacturer sits down to dinner in a suit of clothes which was wool on a sheep's back at sunrise ;' that 'the influence of Plato tinges the British genius. Their minds loved analogy ; were cognizant of resemblances, and climbers on the staircase of unity ;' and that 'it was a curious result in which the civility and religion of

England for a thousand years ends, in denying morals and reducing the intellect to a saucepan.' As might be expected, such a strainer after originality of expression does not always condescend to be intelligible, as for instance in the following passage :—

The necessities of mental structure force all minds into a few categories, and where impatience of the tricks of men makes Nemesis amiable, and builds altars to the negative deity, the inevitable recoil is to heroism or the gallantry of the private heart, which decks its immolation with glory, in the unequal combat of will against fate.

It would be unpardonable, in an article which discusses the question of literary style, not to make mention of Mr. De Quincey, whom Dean Trench, in that admirable little book, 'English, Past and Present,' which we have prefixed to this article, calls 'the greatest living master of our English tongue.' In this we entirely agree with him, and it is difficult for us to express how highly we think of Mr. De Quincey's essays, whether as regards the subtlety of the thoughts or the charm of the composition. But the style is a peculiar one. One of its chief characteristics is discursiveness. It reminds us sometimes of an old-fashioned rambling building, full of winding passages and out-of-the-way rooms. Or we may compare it to a piece of music, in which the original air is almost lost in the multiplicity of the variations. If you take a walk with Mr. De Quincey, you must not expect to be carried along a straight and beaten highway, but to wander through thickets and along by-lanes, and to be brought to your destination by circuitous and seldom-trodden paths. Metaphor may be allowed in describing a writer who is himself so largely and often so quaintly metaphorical. Thus, speaking of the expletives of a Westmoreland farmer, as an illustration of the expletives of Plato (curious juxtaposition!), he says :—

It is the balustrade which enables him to descend the stairs of conversation without falling overboard.

With reference to M. Michelet's work, 'Du Prêtre,' he tells us :—

That book is a rhapsody of incoherence. But his 'History of France' is quite another thing. A man, in whatever craft he sails, cannot stretch away out of sight, when he is linked to the windings of the shore by the towing-ropes of history.

Adverting to the necessity, according to the popular notion

in France, that Charles VI. should be crowned at Rheims, before his English competitor, to give him a lawful title to the throne, he says :—

Now that was to be a race for a coronation ; he that should win *that* race carried the superstition of France along with him ; he that should first be drawn from the ovens of Rheims was under that superstition baked into a king.

Again :—

Up and down the writings of a philosopher will be detected hooks and eyes, lurking more or less obscurely, that were fitted to infibulate (or perhaps meant to infibulate him) into the great draperies and arras of the philosophical speculations hanging down to coming generations.

Oh Cicero ! my poor thoughtless Cicero ! in all your shallow metaphysics, not once did you give utterance to such a bounce as when you asserted that never did human reason say one thing and nature say another . . . . Did the reader ever study the *Antinomies* of Kant ? If not, he has read nothing. Now *there* he will have the pleasure of seeing a set of quadrilles or reels in which Old Mother Reason amuses herself by dancing to the right and left two variations of blank contradiction to old Mother Truth, both variations being irrefragable, each variation contradicting the other, each contradicting the equatorial reality, and each alike (though past all denial) being a lie.

St. Austin in his confessions, and whenever he becomes peculiarly interesting, is apt to be impassioned and fervent to a degree which makes him break out of the proper pace of rhetoric. He is matched to trot, and is continually breaking into a gallop.

But it would be a great mistake to suppose that Mr. De Quincey makes use of metaphor only, or even chiefly, in such semi-ludicrous fashion as the above quotations might seem to indicate. No writer knows better how to employ it appropriately to present to the mind's eye a beautiful image, while at the same time it furnishes a perfect illustration of the subject. Take, for instance, the following exquisite passage, which is thrown carelessly into a note, as if the writer were wealthy enough to cast away his jewels. Speaking of the almost incredible popularity of the '*De Imitatione Christi*,' he says :—

At that time the Bible itself was a fountain of inspired truth everywhere sealed up ; but a whisper ran through the western nations of Europe that the work of Thomas à Kempis contained some slender rivulets of truth, silently stealing away into light, from that interdicted fountain.

But to appreciate the merits in point of style of this delightful writer, he must be read, not in extracts, but continuously ; and we would refer those who wish to know how far the flexibility and power of the English language can be carried, to the edition of his collected works now issuing from the press.

Whatever may be thought of Mr. Ruskin's theories about painting and architecture, and whether he is right or wrong in his worship of Turner, and his contempt of the Five Orders, it cannot be denied that he is the master of a rich and redundant style. We remember seeing it described as 'terse, vigorous, and sparkling;' but we think that epithets could hardly have been worse chosen. Such criticism reminds us of an anecdote told by Coleridge of himself. He was one day gazing in rapture at some waterfall in Scotland—we think it was the Fall of Foyers—and at a loss how to express his admiration, when he heard somebody behind him exclaim—'How majestic!' 'Thank you, Sir!' said Coleridge, 'that is just the word I wanted.' 'Yes,' replied the stranger, all unconscious of the happy propriety of his former epithet, 'yes, it is very *pretty*!'

Mr. Ruskin is vigorous, no doubt, as a man must be who thinks so strongly, and expresses himself so forcibly; but we might as well talk of the terseness and sparkle of Jeremy Taylor or Edmund Burke, as apply those terms to the style of the author of 'Modern Painters.' Instead of being terse, it is remarkably diffuse; and if we were to describe it by a metaphor, we should speak of it as a vegetation that sometimes runs riot in its wild luxuriance. Indeed Mr. Ruskin's fault is too great exuberance of imagery, and too lavish a profusion of epithets. He indulges too much in rhetorical pomp, and now and then, but not often, is betrayed into a conceit which seems to be borrowed from Mr. Dickens. Thus he describes streamlets amongst the Alps, finding their way down to the turf,

with quiet depth of clear water, furrowing among the grass blades, and looking only like their shadow, but presently emerging again in little startled gushes and laughing hurries, as *if they had remembered suddenly that the day was too short for them to get down the hill.*

And he speaks of trees as if they were persons or cattle crowding down together to drink at sweetest streams, climbing hand in hand among the difficult slopes, opening in sudden dances round the mossy knolls, gliding in grave procession over the heavenward ridges.

But he often rises into a strain of noble eloquence—the eloquence of a man who is enthusiastic in his love for truth and beauty, both in nature and in art, and grand in his scorn



of whatever is false, grovelling, or base. In reading his works you always feel that you have to do with a man who is full of his subject and thoroughly in earnest. Every reader of Mr. Ruskin knows his passion for the clouds and the mountains. They are the objects of his heart's idolatry, and on them he lavishes the full power of his imagination. He understands by the making of the firmament, in the first chapter of *Genesis*, the ordinance of the clouds, and he describes them as

going forth at their pleasure like the armies of the angels, and choosing their encampments upon the heights of the hills; no longer hurried downwards for ever, moving but to fall, nor lost in the lightless accumulation of the abyss, but covering the east and west with the waving of their wings, and robing the gloom of the farther infinite with a vesture of divers colours, of which the threads are purple and scarlet, and the embroideries flame. . . . And all those passings to and fro of fruitful shower and grateful shade, and all those visions of moaning winds and threatening thunders and glories of coloured robes and cloven ray, are but to deepen in our hearts the acceptance, and distinctness, and clearness of the simple words, 'Our Father, which art in heaven!'

In the following passage how he pictures in their sublimity the awful character of some of the precipices of the Alps:—

Dark in colour, robed with everlasting mourning, for ever tottering like a great fortress shaken by war, fearful as much in their weakness as in their strength, and yet gathered after every fall into darker frowns and unhumiliating threatening; for ever incapable of comfort or healing from herb or flower, nourishing no root in their crevices, touched by no hue of life on buttress or ledge, but to the utmost desolate; knowing no shaking of leaves in the wind nor of grass beside the stream,—no other motion but their own mortal shivering, the dreadful crumbling of atom from atom in their corrupting stones; knowing no sound of living voice or living tread, cheered neither by the kid's bleat nor the marmot's cry; haunted only by uninterrupted echoes from afar off, wandering hither and thither among their walls, unable to escape, and by the hiss of angry torrents, and sometimes the shriek of a bird that flits near the face of them, and sweeps frightened back from under their shadow into the gulf of air; and sometimes, when the echo has faded, and the wind has carried the sound of the torrent away, and the bird has vanished, and the mouldering stones are still for a little time—a brown moth, opening and shutting its wings upon a grain of dust, may be the only thing that moves or feels in all the waste of weary precipice darkening five thousand feet of the blue depth of heaven.

Nor do we think that Turner could have more vividly drawn with his pencil than Mr. Ruskin has described with his pen the ruined old tower of Calais Church, which, he says, he always contemplates with peculiar affection:—

The large neglect, the noble unsightliness of it; the record of its years written so visibly yet without sign of weakness or decay; its stern wasteness and gloom, eaten away by the Channel winds, and overgrown with the bitter sea grasses; its slates and tiles all shaken and rent, and yet not falling; its desert of brickwork,

full of bolts and holes and ugly fissures, and yet strong like a bare brown rock ; its carelessness of what any one thinks or feels about it, putting forth no claim having no beauty, nor desirableness, pride nor grace ; yet neither asking for pity not, as ruins are, useless and piteous, feebly or fondly garrulous of better days, but useful still, going through its own daily work—as some old fisherman, beaten grey by storm, yet drawing his daily nets ; so it stands, with no complaint about its past youth, in blanched and meagre massiveness and serviceableness, gathering human souls together underneath it ; the sound of its bells for prayer still rolling through its rents ; and the grey peak of it seen far across the sea, principal of the three that rise above the waste of surfy sand and hillocked shore—the lighthouse for life, and the belfry for labour, and this for patience and praise.

But sometimes Mr. Ruskin in trying to soar sinks into bombast. Alluding to the Crimean war, he says :—

The scarlet of the blood that has sealed this covenant will be poured along the clouds of a new Aurora, glorious in that Eastern heaven ; *for every sob of wrecked breaker round those Pontic precipices, the floods shall clap their hands between the guarded mounts of the Prince-Angel* ; and the spirits of those lost multitudes, crowned with the olive and rose among the laurel, shall haunt, satisfied, the willowy brooks and peaceful vales of England, and glide triumphant by the poplar groves and sunned *coteaux* of Seine.

The sentence here marked in italics is much too fine for our comprehension ; nor is it at all obvious why the spirits of the dead warriors should be only ‘satisfied’ when they haunt the vales of England, but ‘triumphant’ when they glide by the ‘*coteaux* of Seine.’ The truth is, that the whole passage seems to us little more than a piece of glittering nonsense, and quite unworthy of an author of Mr. Ruskin’s power and reputation.

No writer of the present day is in our opinion equal to Mr. Newman in point of style as a controversialist. We say nothing of the weakness of his arguments, his prodigious assumptions, and his transparent sophistries : but the liveliness of his manner has an irresistible attraction. A topic is never dull in his hands, however uninviting it may at first sight appear. He has nothing of the dry, stiff, formal character of a theological disputant. He can make polemics almost as interesting as a novel. Something of course is due to the fact that he has thrown his later writings into the popular form of lectures. But it is very observable how his style has changed since he left the English Church. Formerly, while struggling to reconcile the so-called Church principles of the party of which he was the most eminent leader with the stubborn facts and real character of the Church of England, he, like all the other

writers of the 'Tracts for the Times,' as if conscious of occupying a false position, threw a misty haze over the subjects he handled; and in place of plain avowal and positive assertion, he used language, as he himself tells us, 'purposely guarded,' and full of shadowy hints and ambiguous phraseology. *Now* we have no longer the cautious tone of 'so to speak,' and 'as it were,' and 'it may be,' and 'in a manner,' by which propositions were conveniently qualified which were thought to be too startling for acceptance by those to whom they were addressed; but flinging off all such disguises, he speaks out boldly and dogmatically, as becomes the advocate of a Church which claims to be infallible. He is certainly one of the least squeamish writers who ever employed the pen of religious controversy. Nothing comes amiss which can enliven or enforce his argument: joke, anecdote, sarcasm, and pathos, are alike employed by turns; but the transition from grave to gay is generally managed with such art that the contrast which in less skilful hands would be offensive serves only to heighten the general effect. The versatility of his powers is shown by the varieties of style which he has at his command. Compare the biting sarcasm of some of his attacks upon his old friends, with the pathetic eloquence of the language in which, when it suits his purpose, he tries to allure them. In one passage he talks of the authors of the High-Church movement of 1833 as men who, having set their fortunes on a cast, and lost, had nothing else left for them but to shut up their school and retire into the country, 'unless they vindicated the right of private judgment, took up some fancy religion, re-tailed the Fathers, and jobbed theology.' He says the idea of the Anglo-Catholic divines was

simply and absolutely submission to external authority; to it they appealed, to it they betook themselves; there they found a haven of rest; thence they looked out upon the troubled surge of human opinion, and upon the crazy vessels which were labouring without chart or compass upon it. Judge then of their dismay when, according to the Arabian tale, on their striking their anchors into the supposed soil, lighting their fires on it, and fixing in it the poles of their tents, suddenly their island began to move, to heave, to splash, to frisk to and fro, to dive, and at last to swim away, spouting out inhospitable jets of water upon the credulous mariners who had made it their home. And such I suppose was the undeniable fact.

And how he mocks them in the following sentences:—

You have a mission to teach the National Church, which is to teach the British empire, which is to teach the world; you are more learned than Greece;

you are purer than Rome ; you know better than St. Bernard ; you judge how far St. Thomas was right, and where he is to be read with caution or held up to blame. You can bring to light juster views of grace, or of penance, or of invocation of saints than St. Gregory or St. Augustine.

Qualia vincant  
Pythagoren Anytique reum doctumque Platonem.

This is what you can do ; yes, and when you have done all, to what have you attained ? to do just what heretics have done before you, and have thereby incurred the anathema of Holy Church.

And yet he can address the same persons in the following strain of yearning affection :—

O, is it possible that there is a resurrection even upon earth ? O, wonderful grace, that there should be a joyful meeting, after parting, before we get to heaven ! It was a weary time, that long suspense, when with aching hearts we stood on the brink of a change, and it was like death to witness and to undergo, when first one and then another disappeared from the eyes of their fellows. And then friends stood on different sides of a gulf, and for years knew nothing of each other, or their welfare. And then they fancied of each other what was not, and there were misunderstandings and jealousies ; and each saw the other as his ghost, only in imagination and in memory ; and all was suspense, and anxiety, and hope delayed, and ill-requited care. But now it is all over : the morning is come ; the separate shall unite. I see them, as if in sight of me. Look at us, my brethren, from our glorious land ; look on us, radiant with the light cast on us by the saints and angels who stand over us ; gaze on us as you approach, and kindle as you gaze. We died, you thought us dead ; we live ; we cannot return to you, you must come to us,—and you are coming. Do not your hearts beat as you approach us ? Do you not long for the hour which makes us one ? Do not tears come into your eyes at the thought of the superabundant mercy of your God ?

Our space fails us, or we might quote specimens of excellent English composition from the writings of the late Archdeacon Hare, Mr. Helps, Mr. Kingsley, and others ; but we have to perform a much less agreeable task, and we turn to a class of authors who are, we think, the pests of literature at the present day : we mean those who belong to the jocose and funny school. Far be it from us to depreciate wit. It is the nectar of the gods when it is genuine—but worse than ditch-water when it is not. The attempts at wit and humour of those to whom we now allude are as unlike real wit and humour as the smell of an apothecary's shop is to the rich odour of a flower-garden. Instead of gems from the mine, they palm off upon us mock jewels, which serve only to show the poverty and vanity of the wearer. They forget that it is true of wit as of poetry, that *nascitur, non fit* ; and we would address each of them in the words of Mr. Carlyle :—‘ Witty ;

above all, oh, be not witty; none of us is bound to be witty under penalties.' If God has not bestowed on you the gift, be content without it, and do not make yourself ridiculous by assuming its counterfeit. Let the cow beware how she imitates the gambols of the kitten. Sydney Smith was witty because he could not help being so. Wit was the natural element of his intellectual life, and his whole soul was steeped in it. It came forth strong and impetuous, as a river which bursts its banks bears down all opposition, and spreads abroad an inundation. As a joker he was the king of men. And his broad, vigorous style as a writer was the counterpart of his sound good sense and masculine understanding. But it is not for feeble hands to attempt to bend the bow of Ulysses.

Happily, however, in some cases we have fair warning given us by the authors themselves as to what we may expect, and it is our own fault if we condemn ourselves to a perusal of their productions. They hang out an alliterative title as a sign-post, which sufficiently indicates the kind of entertainment provided within. 'From Piccadilly to Pera,' 'From Marylebone to Marathon,' 'The Bridal and the Bridle,' 'Knights and their Days,' are all names of books which we think we have seen advertised during the last few years, and they have been quite enough to prevent us from attempting to cultivate a further acquaintance with any of them—*foenum habet in cornu, longe fuge*.

The name of these writers is Legion, and every week adds to their number. The nuisance, in fact, has become intolerable, and ought to be put down. When such things as a 'Comic Blackstone' and 'Comic History of England' are written, to fill the minds of the young with ludicrous images on the most grave and important subjects, and, so far as is possible, sap the foundations of all reverence and respect for the traditions of the past, it is time to speak out.

We have not, however, space to do justice to the subject, and can at present notice only one—and this not by any means the worst—of these would-be-witty books, which has had, we believe, an extensive circulation, and which may be taken as a type of its class. We allude to Colonel Mundy's 'Our Antipodes.'

This work is intended to be extremely smart and dashing

in style, with a good deal of rollicking fun suited to the character of an old campaigner. We are sorry, however, to be obliged to say that the success is not equal to the endeavour. We hardly ever read a work where the attempt at wit more uniformly breaks down. It consists in introducing, in inverted commas, the commonest quotations from 'Shakespeare,' the 'Eton Latin Grammar,' and such-like recondite books, and applying them to whatever subject is on hand ; in metamorphosing Saxon into Latinized words ; and in making copious use of a slang dictionary.

*Apropos* to a story about an auction, he says, 'I have a little article "to submit to public notice," unique in its way, and "a genuine article."' "

On the Erroll Plains are large quartz boulders—'pebbles such as Goliath might have slung at David, had their duel been conducted with "slings for two."' "

At the Botanic Gardens at Sydney, on a Sunday, 'the shopocracy—a wealthy and comfortable class—resort in considerable numbers to catch a puff "of the briny."' "

When 'the Southerly Burster' blows, 'you must religiously shut up shop until the "chartered libertine," having scavenged the streets of every particle of dust, has moderated his wrath.'

The pic-nic basket 'was unpacked, the lunch spread "*sub tegmine* gum-tree ;"' and the shepherd 'sits all day "*sub tegmine* gum-tree."' "

Colonel Mundy saw some men trying to catch and milk a wild cow, and he tells us that 'it was the most flagitious case of "violence, with intent" to milk I had ever met with.'

But there is hardly a page in the three volumes of 'Our Antipodes,' which does not bristle with these inverted commas, to mark what is intended for some witty quotation ; and we dare say our readers are content with the specimens we have given.

We should be sorry to include in the same category with such writers Lord Campbell as an author ; and yet his 'Lives of the Lord Chancellors' and 'Lives of the Chief Justices' are disfigured by witticisms which injure the effect of his agreeable volumes. They give a jaunty and almost flippant air to works which, dealing as they do with grave personages and impor-

tant questions, would be much improved by a judicious expurgation.

For some reason which it is not very easy to explain, the smart and witty style seems to be that which is most in vogue with Eastern travellers ; and they write such weary trash, that we are constrained to believe that although the Wise Men came originally from the East, very few wise men or women now go there. The slang of the metropolis is carried into the streets of the Holy City, and the solitude of the desert is enlivened (?) by pert jokes and 'fast' opinions. Nothing can be more out of place—nothing in point of style more detestable, than this. We pity the man who can visit Jerusalem and the Dead Sea, and then sit down to write about them in the same spirit and tone that he would adopt if he were preparing an article for 'Punch.' We think he had much better stay at home, and endeavour—if he has wit enough, which we greatly doubt—to enrol himself among the contributors to that facetious periodical. But let him not, in the vain hope of acquiring a reputation as 'that clever young man,' profane a subject which, from its time-hallowed associations, should be treated, if not with reverence, at least with respect. While, however, we deprecate such a style as is too often adopted, we are far from wishing to encourage the idea that it is safe to indulge in the opposite extreme of too much sentiment. We have no desire to see Eastern travellers writing in the fashion of Mr. Scott, who in 'The Baltic, the Black Sea, and the Crimea,' favours us with passages like the following :—

The soft melody of the rippling waters and the whispering of the breeze lulled us to that sweet dreamy state, when *imagination in her fitful play skips from radiant scenes of present bliss to joyous days of youthful years, and clothes each thought in fancy's brightest hues.*

There are, however, happily, exceptions to the usual class of authors who write about the East. One of these is Lord Lindsay, whose 'Letters from the Holy Land,' are as interesting in matter as they are agreeable in manner. And we may now add to the small number of books of Eastern travel which can be read not only with instruction but with pleasure, the Rev. Arthur Stanley's 'Sinai and Palestine'—a work in every way worthy of the subject, and, we will add, in

every way worthy of the reputation of its accomplished author. The rhetoric of Eliot Warburton's 'Crescent and the Cross' is too flowery, and the brilliancy of 'Eothen' is disfigured by the tone of *persiflage* which pervades the work.

In conclusion, we venture to offer a few words of advice and warning to those who meditate authorship. Those who have already adopted a vicious style, are, we fear, incorrigible ; but there are writers in embryo to whom our suggestions may not be addressed in vain. The first object of every author ought to be to write correctly ; the second, to write naturally and unaffectedly ; and the third, if indeed it is not combined in the other two, to write gracefully and attractively. We entirely agree with Dugald Stewart, that

the works which continue to please from age to age are written with perfect simplicity, while those which captivate the multitude by a display of meretricious ornaments, if by chance they should survive the fashions to which they are accommodated, remain only to furnish a subject of ridicule to posterity.

And this explains the remark of Pascal, that *les meilleurs livres sont ceux que chaque lecteur croit qu'il auroit pu faire*. Let every writer bear in mind, that the foundation and basis of the English language is Anglo-Saxon. Dean Trench, who is himself the master of an excellent style, in his 'English, Past and Present,' says, as in fact had been substantially said by Sir Thomas Browne more than a century and a half ago :—

All its joints, its whole *articulation*, its sinews and its ligaments, the great body of articles, pronouns, conjunctions, prepositions, numerals, auxiliary verbs, all smaller words which serve to knit together and bind the larger into sentences ; these, not to speak of the grammatical structure of the language, are exclusively Saxon. The Latin may contribute its tale of bricks, yea, of goodly and polished hewn stones, to the spiritual building ; but the mortar, with all that holds and binds the different parts of it together, and constitutes them into a house, is Saxon throughout.

And we may add that its most forcible and expressive words are also Saxon. So completely does that element pervade it, that it would be almost impossible to compose a sentence of moderate length consisting solely of words of Latin derivation. But there are many which can be rendered wholly in Anglo-Saxon. It would be easy to make the Lord's Prayer entirely, as it is in present use almost entirely, Anglo-Saxon. It consists of sixty words, and six of these



only have a Latin root. But for each of them, except one, we have an exact Saxon equivalent. For 'trespasses,' we may substitute 'sins;' for 'temptation,' 'trials;' for 'deliver,' 'free;' and for 'power,' 'might.' Dr. Trench proposes for 'glory,' 'brightness;' but this we think is not a good substitute, although we are unable to suggest a better. No writer was fonder of Latinized forms of words than Sir Thomas Browne, and yet he could construct paragraphs wholly out of Anglo-Saxon, as, for instance, the following, quoted by Dean Trench out of several which the knight of Norwich has given as examples :—

The first and foremost step to all good works is the dread and fear of the Lord of heaven and earth, which, through the Holy Ghost, enlighteneth the blindness of our simple hearts to tread the ways of wisdom, and lead our feet into the land of blessing.

The great lesson to be drawn from the fact that Anglo-Saxon underlies, like original granite, all the strata of the English language, is, that to write in it is to write for the hearts of the people. It is *their* mother-tongue, strong, sinewy, and expressive; and they cling to it with a fondness which no change of usage can uproot, and no caprice of fashion can destroy. Just compare, in point of force and significance, a 'sanguinary action,' with a 'bloody deed;' 'eternal felicity,' with 'everlasting happiness;' and 'the exemplar of the celestials,' in the Rhemish version of the Scriptures, with 'the pattern of things in the heavens,' in our own; and you will feel at once how the language is weakened by such attempted equivalents.

It would, however, be a ridiculous kind of pedantry to insist that all words of Greek or Latin origin should be avoided. This would indeed be as impossible as the converse case. The necessities of science, philosophy, and the arts, and the wants of an advanced civilisation, absolutely require the admixture of these elements, which contribute so much to the wealth and beauty of the language. Sir James Mackintosh has pointed out, in his 'History of England,' that if you wished to express 'the penetrability of matter' in Anglo-Saxon, you would be compelled to say 'the thoroughfare-someness of stuff.' But there is a rule which applies to the selection of all words, whether Greek, Latin, or Anglo-Saxon;

and it is that which is laid down by the authors of 'Guesses at Truth,' and is supposed to be addressed to a lady:—

When you doubt between two words, choose the plainest, the commonest, the most idiomatic. Eschew fine words as you would rouge; love simple ones as you would native roses on your cheeks.

Above all things, avoid the habit of going out of your way to introduce long words or periphrastic expressions, to show off either your learning or your wit. In one of his early letters, Coleridge playfully asks a friend to look out for him a maid-servant 'scientific in vaccimulgence,' and says, 'That last word is a new one, but soft in sound and full of expression. Vaccimulgence! I am pleased with the word.' But this was only in joke. Chaucer says, in praise of his Virginia, that

No contrefeted termes hadde she  
To semen wise;

and if you wish to write well, your English must be genuine, and not counterfeit. The simplest style is generally the safest. Not that we intend to proscribe the use of metaphor or image when it is appropriate to the subject; and we should be sorry to act as sternly as Coleridge's schoolmaster, the Rev. James Bowyer, who thus addressed his trembling pupil:— 'Muse, boy, muse? Your nurse's daughter you mean! Pierian spring? Oh, ay! the cloister-pump, I suppose!'

Do not pollute the pure well of English undefiled, with the rubbish of affectation and conceit; nor imagine for a moment that liveliness of style consists in a running fire of jokes, nor that the want of wit can be redeemed by vulgarity. Remember what a noble heritage you possess in the English language, and strive to be, in the words of Dean Trench, 'guardians of its purity, and not corruptors of it.' He cites, in proof of the estimation in which it is held by those who are competent to appreciate it, one of the greatest philologists of modern times, Jacob Grimm, who ascribes to it 'a veritable power of expression, such as perhaps never stood at the command of any other language of men,' and says—

In truth, the English language, which by no mere accident has produced and upborne the greatest and most predominant poet of modern times, as distinguished from the ancient classical poetry (I can of course only mean Shakspeare), may with all right be called a world-language, and, like the English people, appears destined

hereafter to prevail with a sway, more extensive even than its present, over all the portions of the globe ; for in wealth, good sense, and closeness of structure, no other of the languages at this day spoken deserves to be compared with it—not even our German, which is torn even as we are torn, and must first rid itself of many defects before it can enter boldly into the lists as a competitor with the English.

Surely this is a language which is worth preserving in its purity, which is worth weaving into textures of beauty, and which ought not to be employed in the manufacture of literary slang.

PROGRESS OF LEGAL REFORM.<sup>1</sup>

'Edinburgh Review,' January, 1860.

UPON October 26, 1859, the citizens of Edinburgh received Lord Brougham at a public banquet in the music-hall of this city, where every man most eminent at the present time on the Bench and at the Bar of Scotland—every man most distinguished in science, in literature, or by public services—had spontaneously assembled to pay a mark of respect to one whose long life and varied labours have embraced almost all the objects which other men have, in their several vocations, pursued, and whose glory it has been to surpass the efforts of most of his contemporaries. Two days later the Academic Body of the University of Edinburgh, convened for the first time to exercise its powers under the new statute, displayed its high sense of the importance of this trust, and its sound judgment of the real interests of the University, by conferring upon Lord Brougham, by a large majority, the office and dignity of Chancellor of this learned foundation. Fortunately for Edinburgh, a man was to be found for this post, high in rank and in fame—the rewards of his own genius—who was born in St. Andrew's Square; who had sat on the benches of the High School; who had followed the courses of this very University; who had been admitted, some sixty years ago, an Advocate of the Bar of Scotland; who was one of the founders of the 'Edinburgh Review;' who has been one of the leading contributors to that journal during no inconsiderable portion

<sup>1</sup> *Lord Brougham's Acts and Bills the Amendment of the Law.* By Sir JOHN EARDLEY-WILMOT, Bart. London: 1857.  
*from 1811 to the present time, now first collected and arranged, with an Analytical Review, shewing their results upon*

of its existence ; and who still retains in an advanced age, the power and the will to promote those reforms in the higher studies of Scotland, which are of such vital importance to the people of this part of Great Britain. We cannot deny ourselves the pleasure of putting on record these remarkable occurrences, because they are true indications of the veneration and regard of the men of Edinburgh, and the graduates of her University for Lord Brougham. The 'Edinburgh Review' was commenced by Henry Brougham and his contemporaries, now somewhat more than fifty-seven years ago ; it has adhered to its principles with unabated fidelity ; and though many of those who were once foremost in the struggle have done their work and are at rest, Lord Brougham has happily lived to witness the general acceptance and ascendancy of those liberal opinions and enlarged views as to Law Reform for which half a century ago it was almost hopeless to contend.

It was observed by an eminent Judge at the Edinburgh banquet, that whatever may be Lord Brougham's other claims to distinction, none will be more lasting than those which he has rendered to his own profession and to the country by his judicial decisions and by his successful exertions for the reform of the law. To that object especially one of his greatest orations was directed, and, unlike many of the brilliant displays of Parliamentary oratory, that speech has fulfilled much of its promise. It has been followed by constant efforts in every branch of the law to effect improvements, to cut away what was antiquated and onerous, and to give greater efficiency, cheapness, and despatch to the administration of justice.

The result of this sleepless activity has been the enactment by the Legislature of a great number of statutes ; which together with many Bills proposed by Lord Brougham, but not assented to by Parliament, have been collected in a volume consisting of nearly nine hundred pages, by Sir John Eardley-Wilmot, and form a noble monument of the unwearied energy and patriotic devotion of one man to the cause of Law Reform. The work before us must have been, as indeed the able analytical review at the beginning shows that it was, a labour of love ; for no hope of pecuniary remuneration could have

induced any editor to incur the trouble and expense of preparing and publishing a volume so little likely to attract ordinary readers. And yet we hardly know a more instructive work. There is an old maxim, *plurimæ leges pessima respublica*, and in these Acts and Bills we shall find the most cogent proof of the existence and nature of the mischiefs deeply imbedded in our legal system, which they were intended to remedy.

But in order to estimate at their true value the results, we must know something of the evils that had to be overcome. It is often difficult to realise a past state of things, even where the change has taken place in our own recollection. When a nest of ugly old houses has been pulled down, and replaced by a stately mansion, or a wide and commodious street, it is not easy to picture to oneself the nuisance as it formerly existed. Few remember the Rookery of St. Giles', the site of which is now occupied by lofty buildings and spacious shops, and yet it stood there, in all its squalidness and filth, only a few years ago. In like manner, we can hardly imagine ourselves living at a time when the Lord Chief Justice of England could rise in his place in the House of Lords, and oppose a Bill for abolishing the punishment of death in cases of stealing above the value of five shillings, in the following words:—

My Lords, if we suffer this Bill to pass, we shall not know where to stand, we shall not know whether we are on our heads or our feet. If you repeal the Act, which inflicts the penalty of death for stealing to the value of five shillings in a shop, you will be called upon next year to repeal a law which prescribes the penalty of death for stealing five shillings in a dwelling-house, there being no person therein,—a law, your lordships must know, on the severity of which and the application of it, stands the security of every poor cottager who goes out to his daily labour.

And yet this was the language of Lord Ellenborough in 1810. Still less can we bring ourselves to believe, that within the recollection of many persons now alive, a wretched woman, whose children were starving, and who entered a shop in Ludgate Hill, and secreted under her dress a piece of silk, which she dropped on the ground before she reached the door, was tried for the offence and hanged! We have seen one of the greatest statesmen of the present day shed tears when this anecdote was told him. If however we wish to place ourselves in the right point of view for appreciating the labours of such a

pioneer as Lord Brougham, we must transport ourselves in imagination back a few years, and we will take a familiar case to illustrate the state of the law as it *then* stood.

Suppose an action brought against a man upon a demand which he has satisfied by payment, but of this fact, owing to the loss of the receipt or otherwise, he has no other evidence than the testimony of himself and one other witness. In the first place, the debt being sworn against him, he has to find bail, and being unable to do this, he is thrown into prison upon what is called *mesne process*. This is not very likely to facilitate his means of defence, but let that pass. Written pleadings are prepared, in which his counsel makes a slip, undiscovered at the time, and the cause comes on for trial. He is not permitted to go into the witness box and state upon his oath that he has discharged the claim by payment. And it happens that his witness has become security for him, and is thus interested in the result of the trial; he therefore cannot be examined. By some miraculous chance, however, the case of the plaintiff breaks down, and the verdict is for the defendant. By this time, however, the slip of the pleader has been discovered, and the plaintiff goes into Court with the modest demand, that the verdict for his opponent shall be set aside, and that he shall be permitted to sign judgment against him *non obstante veredicto*. To this the Court, after some edifying remarks to the effect that in law technicalities must be upheld, and that 'hard cases make bad law,' accedes, and the unfortunate debtor is now taken in execution, and remains in prison at the suit of his creditor, until, if the debt exceeds 300*l.*, he either discharges it by payment, or dies.

Or let us suppose the same person charged with a felony and put upon his trial. He employs counsel to defend him, and we will assume that the case is one that requires a skilful analysis of complicated facts, and a careful review of conflicting evidence. But his counsel cannot open his lips except to argue a point of law, and the miserable spectacle is exhibited of a man, who is perhaps innocent, convicted, because he has not ability to grapple with the case for the prosecution; while beside him sits one, who in mockery is called his advocate, and who could demonstrate the insufficiency of the evidence against him, but who cannot address the jury on his behalf

and must confine himself to an attempt to pick some legal flaw in the prosecution on which to rest his hopes of an acquittal.<sup>1</sup> Is it not wonderful that such an anomaly—rather let us say such a crying injustice—should have endured so long? and yet we know that men of the most humane minds and gifted intellects were opposed to a change of the law in this respect; and we well remember the strong terms of reprobation in which a learned and most amiable judge, now no more, spoke to us of the Prisoner's Counsel Bill, which he regarded as a dangerous innovation.

On February 7, 1828, Lord (then Mr.) Brougham made his great speech on Law Reform. It is one of the most remarkable on record—not merely for the giant grasp he took of his complicated and difficult subject, but still more for the prophetic prescience with which he denounced abuses which have since been corrected, and suggested remedies which have since been applied. To few men has been granted so vast a success, and so ample a reward in the field of legal improvement. He has not only stood on the top of Pisgah and surveyed the promised land, but he has been permitted to live until those for whom he laboured have entered in and taken possession. It is not too much to say, that in that speech Lord Brougham was in advance of his age by a quarter of a century, and awakened the mind of his hearers to the existence of a state of things which would now be deemed intolerable, but which was then clung to with deep-rooted prejudice on the part of lawyers, and regarded with timid acquiescence by the public. But to show what he accomplished, we cannot do better than quote a passage from another speech delivered in 1849, when, with pardonable pride, he thus referred to his achievements in the great cause to which he had devoted so large a portion of his life.

Of above seventy defects whereof I complained on that occasion, about sixty have since been removed; nor were those slight defects, or those changes small innovations. I complained that party prevailed over the selection of judges; and of late years, both while I held the Great Seal, and in the time of my noble and

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<sup>1</sup> It has been stated that the conversion of Lord Lyndhurst from being the opponent to becoming the supporter of the Prisoner's Counsel Bill, was owing to his having perused the masterly opening speech of Sir W. Garrow, in

the trial of Patch for murder, which convinced him how hopeless must be the position of a prisoner who had to reply himself to such an address.—See 'Quarterly Review' for April, 1859, p. 515.



learned friend (Lord Lyndhurst) who succeeded me, as well as while my noble friend on the woolsack (Lord Cottenham) has held office, no party considerations have been allowed to influence the selection of those high functionaries, any more than Sir Robert Peel had, previously to 1828, been swayed by party considerations in naming the judges of Scotland. I complained of the Welsh judicature; this has since been abolished, and the Principality subjected, as I recommended, to the same tribunals with the rest of the realm. I complained of the Court of Delegates; it was abolished by my Act of 1833: of the judicial system prevailing in the Privy Council; it was reformed by the same statute, and the Judicial Committee substituted for the trial of all appeals, both from the Consistorial Courts, the Court of Admiralty, and all our various and extensive foreign possessions. I complained of real actions, including fines and recoveries. Real actions, with the single exception of *Quare Impedit*, are swept away, and fines and recoveries altogether. I complained of many defects and anomalies in the Law of Evidence: these defects have been almost entirely removed by the admirable Act of Lord Denman (6 & 7 Vict. c. 85), though one important step in the same direction yet remains to be taken [taken in 1851 by the Act 14 & 15 Vict. c. 99] by examining parties themselves. I complained of the period of Limitation, especially of the suffering of it to be interrupted by the Duration of Estates Tail, and of the immunity from all limitation enjoyed by Church Rights. The Acts of Lord Tenterden in 1829 and 1832 (2 & 3 Wm. IV. c. 71; and 2 & 3 Wm. IV. c. 100), and those to which my noble friend (Lord Lyndhurst) and I obtained the concurrence of Parliament in 1833, have removed those defects, so that now the opprobrium of the law exists no longer, by which rights might formerly have been enjoyed, as against the Church for centuries, without the least security to the possessor, and by which in one case a large estate in the north, after being possessed for above a century and a half, and being made the subject of settlement, and sale, and mortgage over and over again, was found to be the property of a mere stranger, in consequence of estates tail not having been determined, and no adverse possession having been had as against the reversioner. I complained that the Statute of Frauds had not been united with that of Limitations, and now writing is requisite to prevent the time from running. I had complained loudly of the impediments to settlement by arbitration; this defect has been removed by the Act of 1833, as well as many other anomalies in our system of pleading, on which I had dwelt particularly in 1828. The cruel and unjust, as well as impolitic Law of Arrest for Debt, of which I had also complained, has been entirely changed. Arrest on *Mesne Process* was abolished by my noble friend on the woolsack (Lord Cottenham) in 1837, and my Acts of 1844, 1845, have abolished arrest altogether;—Acts framed upon the principle which I propounded in 1828, that debtors should only be imprisoned for the crime of fraud, or gross extravagance, or for refusing to give up their property to their creditors.

This was in 1848; but since then a long list must be added of Acts which acknowledge Lord Brougham as their author. We may mention the Bankruptcy Consolidation Act, passed in 1849, containing upwards of 270 sections, and codifying that complicated branch of law; the Trustee Act in 1850, by which the Court of Chancery is empowered to deal with the property of lunatic trustees and mortgagees, and to make orders in various cases of trust estates; and, in the same year, the Acts of Parliament Abbreviation Bill. The utility of this

last measure can only be appreciated by those whose dreary duty it is to wade through the mass of useless verbiage which used to disfigure previous Acts ; and the number of these may be imagined by the fact that, in the year 1836 alone, 191 Private Acts passed the Legislature, comprising about 9,000 folios. But we willingly spare our readers the infliction of specimens of the repetitions, and involutions, and complications which flourish there in full luxuriance. In 1851 three of Lord Brougham's Acts were passed—two for improving the Patent Law, and one for making parties to suits admissible as witnesses. Next year, 1852, he carried the Extension of Copyhold Enfranchisement Act and the Act to shorten the time for assembling Parliament after a dissolution, although, perhaps, this last can hardly be classed amongst legal reforms. In 1852 we may mention an Act to abolish Masters in Chancery, and in 1853 an Act whereby the husbands and wives of parties to a cause were rendered admissible as witnesses, except in criminal proceedings or cases of adultery. Neither husband nor wife, however, was to be compelled to disclose any communications made by the one to the other during the marriage. In 1854 he carried an Act providing an appeal in cases tried before the County Courts ; and in 1855 an Act for the summary trial of offenders, which was compounded of two Bills introduced into the House of Lords in that session, the one by Lord Brougham and the other by Lord Chancellor Cranworth. By this salutary measure a prisoner charged with simple larceny or stealing from the person may, if he chooses to plead guilty before two magistrates, be summarily convicted by them, and thus escape the hardship of a long imprisonment beforehand, which, in most cases, would be his lot if he were committed for trial at the sessions or assizes.

In the above review we have omitted to mention the Central Criminal Court Act, which was carried without opposition by Lord Brougham when he was Lord Chancellor, in 1834 ; and in the enumeration we have only included those Acts that directly owe their parentage to him, but have not noticed such as were carried by others, although the suggestion and previous advocacy of them were due to him. Amongst these was the Local Courts Act (9 & 10 Vict. c. 95) in 1846, the subject of which was brought by him before the House of

Commons in an elaborate speech in April, 1830, when he obtained leave to introduce a Bill for their establishment. The Act, as passed, however, omitted some portions of Lord Brougham's Bill—namely, those which gave to the local courts jurisdiction in equity and bankruptcy, and constituted them courts of reconciliation, while it reduced the amount to be sued for from 100*l.* to 20*l.* in the ordinary jurisdiction. And we ought not to pass over in silence the Common Law Procedure Acts of 1852 and 1854, two of the most useful in the Statute Book, which swept away the iniquities of special pleading and other absurd technicalities that were the disgrace of the English law. Many of the amendments introduced by these two Acts had been foreshadowed by Lord Brougham in his speech in 1828.

But to show that, while he struck with an unsparing hand at the abuses of the law, he was actuated by no wish to injure in the slightest degree the profession of which he was a brilliant ornament, we will quote a passage from that speech, which deserves to be written in letters of gold, and which at the present day has peculiar import and significance, as is too well known at the Bar. We especially commend it to the attention of those upon whom rests the responsibility of appointing to high places in the law. Amongst other inconveniences of the October sittings which then existed, he alluded to the fact of which perhaps little account would now be taken, that the barristers who went the Northern Circuit were thereby greatly curtailed of their vacation, and he said—

It is the most foolish of vulgarisms to suppose that by how much the more you vex and harass the professors of the law, by so much the more you benefit the country. The fact is quite the reverse ; for by these means you make inferior men, both in rank and feelings and accomplishments, alone follow that profession out of which the Judges of the Court must be appointed. I should rather say that by how much the more you surround this renowned profession with difficulties and impediments calculated only to make it eligible to persons of mere ordinary education and mere habits of drudgery, who otherwise would find their way to employment in tradesmen's shops or at best in merchants' counting-houses, by so much the more you close it upon men of talent and respectability, and prevent it from being the resort of genius and liberal accomplishments.

We of course cannot, within the brief limits of an article like this, attempt to analyse the mass of legislation embraced by the Acts we have enumerated, but we will say a few words on the subject of the Law of Evidence ; for no part of the

administration of justice is more important, or requires more watchful attention than this. It would be difficult to exaggerate the mischiefs that must ensue if that law is based on erroneous principles or is defective in its application. We need only look across the Channel and take as an example the trial of the Lemoines, mother and daughter, for infanticide, to see the pitiable result of allowing a judge to interrogate a prisoner for the purpose of extorting evidence of guilt, by which means he is converted into an advocate, and the equilibrium of justice is destroyed. But what avails it if the judge is impartial and upright, the jury honest and intelligent, and the cause good, if it cannot be legally proved? The rights of parties are in danger of being shipwrecked if evidence is too loosely admitted or too rigidly excluded. But of the first of these two evils the boldest accuser of our system of jurisprudence will readily allow that it stands clear. It has always been a distinctive characteristic of the English law that it requires a greater degree of strictness of proof than is known in the procedure of any other civilised nation in the world. And of the reason of some of its rules in this respect it is difficult to give an explanation, and still more to justify them to a non-professional mind. We have often thought how bewildered the audience in our Courts must be, at hearing questions objected to and disallowed which seem the most natural and obvious to ask; and at seeing documents rejected which, as both sides admit, contain the most important evidence bearing upon the fact in dispute, but which, owing to some mysterious and (to them) unintelligible technicality, neither the judge nor the jury is allowed to look at. We are far from saying that sound and logical reasons cannot be given for this, but it would be foreign to our purpose to discuss the question here. We will confine ourselves to a canon of the law of evidence which existed until a very few years back in England, and which we verily believe did more to produce wrong verdicts and defeat the rights of parties than any rule—except perhaps that of the civil law, which required two witnesses at least to prove a fact—in the jurisprudence of any other nation; and we say this with a full consciousness of the extreme laxity of the rules of evidence in France and Germany, and a full knowledge of the danger of mistake to which

such laxity leads. We allude to the rule which prevented a person from giving evidence at a trial, who had the smallest pecuniary interest in the subject matter in dispute. The kind of interest which excluded testimony was defined by Chief Baron Gilbert to be 'where there is a certain benefit or advantage to the witness attending the consequence of the cause either way.' No matter how unimpeachable his character and respectable his station, if it could be shown that he had an interest to the extent of sixpence in the issue of the trial, his lips were closed and his evidence was inadmissible. On one occasion Lord Mansfield said, 'The old cases on the competency of witnesses have gone upon very subtle ground. But of late years the Courts have endeavoured, as far as possible, *consistently with the authorities*, to let the objection go to the credit rather than to the competency of a witness.' This was in 1786; but the endeavour of the Courts was not very successful, and the 'authorities'—those sons of Zeruiah—were too strong for them.<sup>1</sup> It would be endless, and happily now it is useless, to multiply examples, but we may mention that after this *dictum* of Lord Mansfield it was decided that, in an action against a master for the negligence of his servant, the servant was not a competent witness to disprove his own negligence, on the ground that the verdict might be given in evidence in a subsequent action by the master against the servant, to show the amount of damages he had been compelled to pay in the former action. So a person in any degree liable to the costs of a cause was held not to be a competent witness. The mode of taking the objection was by what was called examining the witness on the *voire dire*, that is, asking him on his oath, in which he swore *to speak the truth*, whether he was interested or not.

But the law on the subject was illogical and inconsistent. For it professed to exclude the evidence because the party tendering it might be supposed to be under a bias towards the side for which he appeared, but it took no account of the in-

<sup>1</sup> Even now attesting witnesses to a will are by express statute not allowed to take an interest under the will. This is certainly better than to permit them to retain their legacies and exclude their testimony in an attempt to prove the

will. Perhaps, however, this is rather an Irish way of putting it—for if the evidence were excluded the will could not be proved, and therefore they must lose their legacies which depend upon the will.

terest arising from close relationship, except in the single case of husband and wife. A father might give evidence for a son, or a son for a father, but if the one had incurred the slightest pecuniary obligation for the other which could in any way be affected by the verdict, he could not be heard, except, indeed, in the unlikely case where his evidence would tend to fix his own liability.<sup>1</sup>

Of course, as a direct consequence of this rule—and indeed *à fortiori*,—the parties to a cause could not give evidence on their own behalf, and, therefore, when the transaction was such as could not be proved by a third person or by some document, a party who had nothing but his own testimony to rely upon necessarily failed. We remember hearing a story of an eminent advocate who employed a chimney sweeper to rectify a particular chimney that smoked, and afterwards asked him for what sum he would undertake to put right all the 'chimneys in the house. The sweep answered that his charge would be a guinea a chimney, on which the lawyer told him, no one else being present, that he might do it for that sum. Soon afterwards a bill was sent in claiming seventy guineas for the work done, and as the barrister had no means of proving what the contract was except by his own statement, which as the law then stood was inadmissible, and he knew that Sooty would bring a host of sweeps to swear that the bill was a reasonable one, he thought that the wisest course was to submit at once, and he paid the demand.

It must, however, in candour be admitted that those who argued against the proposed change and upheld the old maxim of our law, that *nemo debet testari in propriâ causâ*, made a very plausible case. They said that the interest was here too great and the temptation to perjury too strong. But we think it might be fairly replied that a rule of law, whereby honest men are defrauded of their rights, ought not to be permitted to continue because dishonest men may avail themselves of its abrogation for the purpose of perjury. And it may be doubted whether the fear of this consequence which influenced so many in their opposition to a change in the law has been justified by the event. Lord Brougham of course did not

<sup>1</sup> Under the Civil Law the rule was, *se nec volentes ad testimonium admittendi* that *Parentes et liberi invicem adversus* *sunt.* Cod. iv. tit. 20. s. 6.

overlook the obvious objection that would be urged against the admission of parties to give evidence when he proposed it in his speech in 1828 ; but he thus replied to it by anticipation :—

Speaking from my own observation, I should say that there is more risk of rash swearing than of actual perjury ; of the party becoming jealous and obstinate, and seeing things in false colours, or shutting his eyes to the truth, and recollecting imperfectly, or not at all, when the passions are roused by litigation.

And in this opinion Sir J. Eardley-Wilmot agrees, who, being himself a County Court Judge of several years' standing, is entitled to speak with some confidence. He says that 'experience of the modern practice, tested daily in the County Courts, confirms the truth and soundness of the above observation. Perjury doubtless is increased, but very often testimony entirely contradictory may be accounted for in the way pointed out by Mr. Brougham, without necessarily arriving at the conclusion that parties are intentionally violating the sanctity of an oath.' To this we may add that the cases where the Judges of the Superior Courts feel themselves called upon to commit parties to a cause for perjury in their evidence are very rare.

But we cannot pursue the subject of Law Reform further at present. Much has been accomplished, but much still remains to be done. We cannot believe that the absurdity of shutting up a jury 'without meat, drink, or fire, candle light excepted,' until they are agreed upon a verdict, will be any longer tolerated ; and we have in a previous article already expressed our opinion that the requirement of unanimity of juries, ought, in civil trials, to be done away with, and the decision of a majority, which to conciliate our opponents we are willing to fix at two-thirds, accepted in its stead. We can only regret that the attempt of the present Lord Chancellor during the last session to effect a change in this respect was unsuccessful. The great argument with which he was met, was the infrequency of the occurrence of juries being discharged without a verdict, on account of their *not* being able to agree. But we attach little value to this circumstance even supposing it to be true to the extent stated—which we doubt,—for it is impossible not to feel persuaded that in a vast number of cases the unanimity is a sham and

not a reality ; and the verdict represents not the deliberate opinion of the whole jury, but that of a majority to whom two or three out of the twelve surrender their convictions for the sake of conformity, forgetting that they are bound by their oath 'to give a *true verdict according to the evidence.*' We do not know whether Lord Brougham's opinion on this question has undergone any change, but it certainly *was* adverse to that here advocated. In his speech on Local Courts in 1830, after saying that he would have a jury to decide all cases of conflicting testimony, he added, 'but I would not have that verdict the verdict of the majority, for, paradoxical as it may seem, I would have a forced unanimity among the jury. Were it otherwise, there would never be that patient investigation which is necessary to come at the truth. There would be cries of "Question" such as are sometimes heard in larger and less judicial assemblies.'

There is also the important question of our Bankruptcy Law, the present state of which excites such deep dissatisfaction in the mercantile and trading community ; and no wonder when we consider the large proportion of every insolvent estate which is swallowed up in costs and percentages, not to mention the untenable distinction that exists between traders and non-traders as to the operation of the law. And a late notorious trial has furnished a strong argument in favour of those who insist that there ought to be a criminal Court of Appeal on questions of fact, which we incline to think might be safely established, if due care were taken to prevent the abuse of an absolute right of appeal, the effect of which would be that every capital case would be tried twice over. But we are free to confess that we see great difficulties in the way of such a measure, which we may, perhaps, take another opportunity of fully discussing. It is to be hoped also, that next session will see Bills brought in to regulate the transfer of land, and for quieting of titles, for the purpose of putting an end to the costly and cumbrous machinery of conveyancing as it now exists, and of making land a more marketable commodity. On one of the ancient bricks discovered at Nineveh, the cuneiform inscription is believed to be an Assyrian form of conveyance, and although we can hardly hope to reduce *our* forms to such narrow dimensions, we may beyond doubt effect



a wonderful improvement in them both as regards simplicity and brevity. Then again, the important question of the mode of preparing Acts of Parliament must be dealt with ; for it is a scandal and a disgrace that the following description of the process given by Lord Brougham in his speech on Law Reform in 1848, should still be the language not of satire but truth.

No system whatever, nothing approaching to systematic, is to be seen ; all is random, all haphazard, all blind chance, all acting in the dark, without rule or guide, or compass or concert. The bills propounded have a twofold origin ; they come from Boards or departments of the State, or they come from private individuals, whom, without any disrespect, I may term amateurs in legislation. But the Boards, independent and separate, act without any concert or any communication whatever, are entirely ignorant of what the other is doing ; each proceeding upon principles of its own, if principle any of them ever think of ; each taking its own views of the same subject matter on which the other is composing law ; each employing a phraseology of its own ; all generally in collision, and often in conflict. . . . The result of this habitual carelessness and want of system in the preparation of our laws might easily be foreseen. A mass has been engendered, in which the obscurity of darkness alternates with the glare of cross light, meagre explanation with inexcusable prolixity, repetition with omission, repugnancy with truism, a mass which, if it be not termed nonsense and contradiction, only escapes those epithets from the respect due to the venerable name of a Statutory Record.

We could amuse our readers with many proofs of this, and with instances where even 'the venerable name of a Statutory Record' has not deterred Judges on the Bench from declaring provisions of Acts, which they were bound to interpret, nonsensical and contradictory. But we have not space to spare, and we must pass on to the remedy, which, we are inclined to agree with Lord Brougham in thinking, can only be found in the establishment of a Board formed of skilful professional men, 'not to supersede, but to aid both Houses of Parliament in the preparation of Public Bills.' At all events it would be impossible to controvert the canons he lays down as essential to be observed in the framing of statutes. 1. A statute should never be made without a careful regard to former statutes, *in pari materia*. 2. One part of a statute should ever have regard to all its other parts. 3. Alterations made in passing a Bill should carefully be made, having reference to the parts that are left unchanged.

And, in respect of the language in which they should be conveyed, it would be difficult to discover rules more apt and useful than the following, which will be found in the same

speech, and some of which ought to be kept in view in every species of composition.

1. Always use the least equivocal and the plainest terms.
2. Never use a word which has two senses, without defining in which it is used.
3. Never use the same word in two senses.
4. Never use different words in the same sense.
5. Never assume as known what has not been expounded.
6. Never, if possible, enact by reference to another statute.
7. If, to avoid greater prolixity, you must import another statute, regard carefully the text of the Act referred to.

Closely connected with this subject are the questions of a Consolidation of the Statutes and a Code. With regard to the necessity of the first there really can hardly be any difference of opinion. It is a work urgently required, and ought not to be any longer delayed. Our Statute Book is a tangled forest of legislation, in which, according to the old proverb, one cannot see the trees for the wood. None but the most experienced pioneer can hope to thread his way through the intricate labyrinth; and even he will be often lost in the brushwood of contradictory clauses, inconsistent provisions, and redundant and superfluous matter. What is wanted is a condensation of all statutes relating to the same subject into one or, if necessary, two Acts, framed upon the principles and in the language indicated by Lord Brougham, and a repeal of the previous legislation relating to it. This will be the starting point, and future alterations or additions can easily be made in separate Acts, until they become sufficiently numerous to justify a second total repeal, and the enactment of a fresh statute, framed upon the model of the former one. As to a Code, we have some doubts as to both its practicability and its expediency, for reasons which are generally lost sight of by those who advocate its adoption in this country. They forget that the English Courts never venture beyond the letter of an enactment. They expound the law, but never (at least in theory) extend it. We are not now speaking of the principles of the common law, which are elastic enough to admit of expansion without drawing upon the judges what they would consider the reproach of *making* law instead of *declaring* it, but of statute law: and no one at all conversant with the administration of justice in England, can fail to be struck with the jealous care with

which our Courts confine themselves within the limits of written law. Their maxim is, *jus dicere et non jus dare*, and they do not stir a hairbreadth beyond what the legislature has enacted. If, then, we had a Code,—that is, a written statutory record of the whole law,—we should find the Courts trammelled by definitions and directions to which they would adhere with the most rigid exactness, but which would lead to many absurdities, and in not a few cases to a miscarriage of justice. For, in discussing this subject, it must never be forgotten that both the Roman and the French Codes admit a latitude of interpretation, and have in some points an indefiniteness, which would never be tolerated in England, if a Code were introduced here. Thus it is one of the provisions of the ‘Code Napoleon,’ even in criminal cases, that ‘the President is invested with a discretionary power, in virtue of which he will be able to take upon himself all that he shall believe to be useful for discovering the truth.’ In strong contrast with which we may quote the dictum of Lord Camden, that ‘the discretion of a judge is the law of tyrants.’ And as to the great work of Justinian, which is so often appealed to as the model of what is wanted in England, we do not hesitate to say that it is loose and vague to a degree of which those who have not studied it can have no conception. It is admirable in the enunciation of certain principles founded in equity and good sense ; but as a code of written and positive law it is utterly deficient in the qualities of precision and accuracy, such as we are accustomed to look for in any legal exposition of a subject. The ‘Digest’ is in fact an undigested mass of extracts from text writers ; the ‘Juris Prudentes of the Roman Law,’ and the ‘Code’ (properly so called) is a collection of rescripts or answers sent by the Emperors to particular questions submitted to them by individuals. It is in the Institutes alone that we find anything like scientific or systematic arrangement, and we believe that they were the last great work of Justinian’s reign.

But supposing the difficulty to which we have alluded not to exist, there are other objections which we think deserve considerable weight. A Code must at all events be interpreted and applied to the facts of each case as it arises ; and the English law abounds in the nicest and most subtle distinctions,

some of them so shadowy that it is almost impossible to abstract them from the special circumstances which gave rise to them, and embody them in a general rule. Hence occurs the necessity of voluminous reports of cases, in order that the practising lawyer may see whether or not they can be distinguished from, or whether they have the authority of precedents for, the particular case on which he is called upon to advise. There must, therefore, necessarily spring up as an excrescence from the Code a body of commentaries and reports without which the Code itself would be sure to mislead, but with which the public would be no better off than they are at present. And, besides all this, the active work of legislation would be constantly going on, adding to, and altering or modifying the provisions of the Code, so that in a few years it would be impossible to rely upon it as an exposition of the existing law. We might multiply objections further, but we cannot at present pursue this interesting subject, and we shall conclude by quoting a passage from Lord Brougham's speech on law reform in 1848, in which he said, on referring to the convulsions which in that year were shaking other States to their foundations :—

I have the most entire and undoubting confidence in the powers of our Constitution, and the loyalty, the virtue, and the courage of my fellow-subjects to sustain it. But the better the law is under which they live, the cheaper its administration to them, the closer its remedies are brought to their own doors, the plainer it is written for them to read, and the simpler to comprehend as digested, the more secure property becomes in the enjoyment, the easier to exchange and transfer, making it, as Blackstone says, answer more perfectly the purposes of civil life,—removing, as Locke hath it, the shoals and quicksands which beset the course of those who deal with it,—the better will our system deserve the people's love, with the more fervent loyalty will it be by them upheld, the more firmly nerved in its defence will be their gallant arms, the more inaccessible their honest hearts to the arts of all its enemies.

These are eloquent words, but not more eloquent than true; and the effect of the legal reforms which have been accomplished within the memory of the present generation, has unquestionably been to perfect the noblest institutions of this country, and to strengthen the attachment of the people to the laws by which they are governed.

## AN ELECTION IN FRANCE.<sup>1</sup>

‘Blackwood’s Magazine,’ July, 1860.

*Haud facillè libertas et domini miscentur.*—TACITUS.

AN article has very recently appeared in which a narrative was given of the mode in which the provinces of Savoy and Nice were torn from Italy and annexed to France, under the pretence of an appeal to the populations by means of universal suffrage. It was there shown, by the evidence of facts which came under the cognisance of an eyewitness, that the whole process was a gigantic swindle, and that the result obtained by the ballot-box no more represented the real opinions and wishes of the inhabitants, than if they had been marched up to the poll under an escort of military, and compelled to vote at the point of the bayonet, according to the dictates of the French Emperor, whose subjects they have now become. The lesson was an instructive one, and it has, we hope, opened the eyes of all who are not too blind to see, to the intense mockery of universal suffrage as a test of the national will, under circumstances of pressure such as was exercised in the case of Nice and Savoy. We propose now to show the way in which the same instrument is worked in France, and to put our readers in possession of some facts which will enable them to judge of the worth, or rather worthlessness, of an appeal to the people under such conditions.

At present we see in France a state of things which it is difficult to comprehend. We can understand the existence of simple despotism, like that of Russia; or limited monarchy, like that of England; or pure democracy, like that of America; or any of these, with certain modifications not destructive of

<sup>1</sup> Although the Empire has passed away and a Republic now (1874) exists in France, this article may be not without interest as showing how popular elections were managed under the Imperial régime.

the main idea and central principle of the particular form of government. But despotism and democracy are contradictory opposites, which seem to be no more capable of amalgamating than fire and water. Each is, in theory at least, the absolute negative of the other. And yet France exhibits the spectacle of a despotic Government based on the most democratic of all principles—universal suffrage. Under it the Republic was set aside, and a single hereditary ruler was voluntarily chosen by the people, by an overwhelming majority of votes; and under it the Emperor has to deal with a representative Chamber periodically chosen by the masses of the people, who, it seems to be paradoxical to assert, are perpetually conspiring against their own liberties. However carefully, in the constitution framed for France by the Emperor, are traced the limits within which the Chamber must confine itself, it is impossible to deny that, unless the Imperial Government were popular in France, unmistakable symptoms of general disaffection would show themselves within its walls under a system of universal suffrage, *provided* the suffrages were fairly taken, and the members chosen truly represented the opinions of their constituents. We see no answer but one to such an argument as the following, which might be used by Napoleon III. in defence of his government :—

You complain that France is despotically ruled, and that her liberties are crushed by military force; that she has no free press; and servilely obeys the dictates of the head of the State. But observe, she does all this with her own free will. She herself, after a solemn appeal made by me to the whole population, chose me as her ruler; and she possesses in the *Corps Législatif* an organ through which her voice may be heard with less chance of being mistaken than even the public voice in the Parliament of England; for there the right of suffrage is restricted to a few, whereas in France it belongs to the whole adult male population. If, then, you admit that the voice of the nation is fairly represented by the deputies elected by universal suffrage, and admit also, as you cannot deny, that opposition to Government in the Chamber is feeble and insignificant, I ask you, in logical fairness and consistency, to admit that France and I are perfectly at one, and that in the policy which I pursue I act merely as the interpreter of her will. You tell me that my power rests on the bayonet, but I appeal to the testimony of the ballot-box.

To this we would reply by asking the question, ‘Is the ballot-box a true witness? Is the testimony it gives a reality or a sham?’ Certain facts have come to our knowledge which make us doubt the integrity of the appeal; and we believe that the solution of the enigma of the existence of so-

called free institutions in France, side by side with a military despotism, is to be found in the influence which the French executive is able to exercise over the elections, and thus from the dangerous nettle of liberty to pluck the flower of safety for itself. We dare say our readers have seen the ingenious trick of legerdemain called 'forcing a card,' which consists in offering to a bystander his choice out of all the cards of the pack as they are rapidly shuffled before his eyes, but in reality compelling him to take the particular card the conjuror wishes. This is in fact very much like the *modus operandi* of the great French Conjuror. He makes the people believe that they are exercising a free choice in voting by ballot for a representative, but he takes very good care to secure as far as possible the return of a candidate nominated by himself.

It is not easy for us in this country to realise the extent to which Government action is carried in France. The distinctive feature of the freedom which is the boast of the Anglo-Saxon race is self-government. Parish vestries, boards of health, boards of guardians, municipal corporations, and local committees, manage a vast number of public affairs amongst us, with as little interference on the part of the executive as if that executive did not exist. But in France the very reverse of this is the fact. To quote the words of a writer which seem apposite to our purpose:—

The Government there, under whatever form, whether that of Directory, Consulship, Empire, Restoration, Monarchy of the Barricades, Republic, or the Army, which is its present phase, has always been essentially despotic in its character. It has ruled by a system of paid *employés* in immediate dependence upon itself. The provincial functionaries, such as prefects and sub-prefects, and mayors of *arrondissements*, are mere puppets, whose strings are pulled by the executive in Paris. In no country is the system of police surveillance and espionage more thoroughly understood or constantly practised. No public meetings are convened, as in England, to take into consideration the measures of Government, and, if necessary, organise a peaceful opposition to them. The people are not, except in the solitary instance of dropping their individual votes into the ballot-box when the period of an election comes round, made parties to the management of their own interests. Hence there is, properly speaking, no public opinion in France the influence of which can be felt by statesmen, and enable them to forecast the measures which will be best suited for the wants, and most in accordance with the real wishes of the nation. Hence also results the startling paradox, that the French, of all people in the world, are the most impatient of constitutional control, and the most servilely submissive to despotic power.<sup>1</sup>

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<sup>1</sup> FORSYTH'S *History of Trial by Jury*, pp. 421, 422.

We will now, by way of example, give the history of a French election, which took place in the electoral district of Fougères and Vitré, in the department of Ille-et-Vilaine in Brittany, on December 18 and 19, 1859. It will serve as a good illustration of the mode in which universal suffrage works—or rather is worked—across the Channel, and may throw some light upon the machinery by which the existence of a representative Chamber is made compatible with that of a despotic Empire. And the lesson it affords will not be without its use at a time when the process is applied not merely to determine the result of particular elections, but to annex whole provinces, and reconstruct nationalities, under the pretence of an appeal to the people.

We take the facts from a *Protestation*, or, as we should say, Election Petition, presented by M. le Beschu de Champ-savin, one of the defeated candidates, to the *Corps Législatif*, praying that a commission of inquiry might issue to verify his allegations, and that the election might be declared null and void, on account of the illegal practices of which he complained.

M. le Beschu is a gentleman of high position and unimpeachable honour. He is *Conseiller*—that is, one of the judges of the *Cour Impériale* at Rennes in Brittany—a chevalier of the Legion of Honour, and possesses considerable estates, one of which, Champsavin, is situated in the commune of Louvigné, and gives its name to his family. The rest of his property lies within the electoral district of Ille-et-Vilaine, which was the scene of the contest we are about to narrate. He therefore had strong local claims upon the inhabitants—at all events, as compared with a stranger—and had been frequently returned by them as member of the *Conseil Général* of the department. A general election being about to take place in the month of December last year, M. le Beschu determined to present himself as a candidate to the electors of the arrondissements of Fougères and Vitré, and solicit their votes for the honour of a seat in the *Corps Législatif*. His first step, in conformity with the provisions of the law of July 16, 1850, was to send, on November 26, to the *procureurs impériaux* of Fougères and Vitré a declaration of his intention to be a candidate, and also a copy of the card or ticket which he pro-



posed to distribute in the two arrondissements. He next took the oath required by the *Senatus Consultum* of December 25, 1852, and sent the announcement of his intention to stand to the three newspapers which are published at Rennes. One of these was used by the prefect as his official organ, and the appearance of M. le Beschu's address in its columns was headed by a sort of cautious apology on the part of the editor:—

We have received from the Honourable M. le Beschu the following letter, the insertion of which, we believe, we have not the power to refuse.

‘Have not the power to refuse,’ Mr. Editor? what does that mean? What possible objection could you have to inserting the letter, even if you were at liberty to decline to do so? The fact was, that the prefect, or rather the Government, had already a candidate of its own in the field, in the person of a certain M. de Dalmas, who filled the high and important office of *Sous-chef du Cabinet de l'Empereur*; and the prefect, in obedience to orders from head-quarters, had previously, on November 22, addressed a circular to the mayors of the different communes of the two arrondissements, strongly insisting upon the duty of electing M. de Dalmas. We ought to state that several other candidates besides M. le Beschu, locally known to the electors, had declared themselves; but it is only necessary to mention the name of one of them, M. Dréo, who alone of the others went to the poll, and of whom we shall have something to say by-and-by.

M. le Préfet said in his circular that the government of the Emperor had charged him to recommend, in its name, to the electors as the candidate of its choice, M. de Dalmas, *Sous-chef du Cabinet de l'Empereur*; and he expressed his hope that the electors would receive with favour the name ‘of one of the first functionaries of the household of the Emperor,’ and thus secure for their interests a patron in a better position than any of the other candidates ‘to assist us in the accomplishment of works of public utility which we have commenced, or which we propose to undertake, in the interest of the population of Ille-et-Vilaine.’ And he added, that the motives which had determined the Government to recommend M. de Dalmas to the electors were, first, the necessity of preventing unhappy divisions which would take place if the con-

test were confined to local candidates; and, secondly, the advantage of confiding important interests to an eminent person (*une notabilité*), in a position to defend them.

We do not stop to criticise this production of *M. le Préfet*, otherwise we might ask why 'the Government' should be anxious to have the interests of Ille-et-Vilaine entrusted to so puissant an advocate as one of its own creatures was thus represented to be; for as all public favours must emanate from the Government, it surely could confer them, if it pleased, without the intervention of the *SOUS-CHEF du Cabinet de l'Empereur*.

With reference to the remark, that the adoption of a Government candidate was proposed to prevent jealousies and heart-burnings, M. le Beschu makes an admission which shows how fully he recognises the right of the executive to interfere within limits which we should have thought wide enough to satisfy even Imperial ideas on the subject of freedom of election. He says, 'If the Administration had made its choice amongst the inhabitants of the district who appeared to be most popular with the electors, all the other rival candidates would have instantly retired from the contest.' The primary grievance complained of, therefore, seems to be, not Government interference as such, but its interference on behalf of a stranger.

In order fully to understand the allusions in *M. le Préfet's* circular to the probable benefits which M. de Dalmas might be able to confer upon the district if he were elected, we ought to mention that it was preceded by notices in some of the local newspapers, that the Emperor, 'at the instance of the prefect,' had decided upon creating a *domaine impériale* in the department of Ille-et-Vilaine; and in order to puff *M. le Préfet*, it was added that 'the execution of this plan could not be entrusted to better hands than those of the enlightened magistrate, who, with such loftiness of view, seconds, in our country, the intelligent policy of the Emperor.'

The prefect's next step was to send a circular to all the mayors, telling them to address to every elector within his jurisdiction a ticket, containing the name of M. de Dalmas, 'candidate of the Government of the Emperor,' and they were ordered to give every publicity to an official proclamation,

copies of which accompanied the letter. This was an address to the electors, signed *Le Préfet d'Ille-et-Vilaine*, P. FEART; and as we are not in the habit of seeing such documents in this country issued by Government officials, even in the case of dockyard constituencies, we will give it entire as an electioneering curiosity:—

## ELECTION FOR THE ARRONDISSEMENTS OF FOUGÈRES AND VITRÉ UNITED.

## PROCLAMATION.

*The Prefect of Ille-et-Vilaine to the Electors of the arrondissements of Fougères and Vitré.*

## ELECTORS !

The Government proposes to you to choose as deputy M. de Dalmas, *sous-chef* of the Cabinet of his Majesty the Emperor.

M. de Dalmas belongs to Brittany.

He knows your interests.

He appreciates the full extent of your wants.

He is in a position, as well from sympathy as duty, to fulfil faithfully the trust reposed in him, and to devote himself usefully to the prosperity of your country.

M. de Dalmas, besides, is not only able to make the Government appreciate all your claims to its good-will—

He affords to us, by the very fact of his becoming a candidate, the means of proving that the Government, now to-day as at the time of the visit to Brittany, can reckon upon your support.

## ELECTORS !

You have up to this day availed yourselves of all occasions that have been offered to you to manifest your sympathies for the Government of the Emperor, and your devotion to your country.

No other candidate would be able, in the same degree as M. de Dalmas, to give satisfaction to your sentiments of gratitude, and to your interests.

We have the confident hope that you will, by your votes in favour of M. de Dalmas, ratify the choice of the Government of the Empire.

Done at the Hotel of the Prefecture, at Rennes, the 9th of December, 1859.

*The Prefect of Ille-et-Vilaine*

(Signed) P. FEART.

The prefect also addressed a significant notice to the mayors, directing them to inform him of the names of the inhabitants of their communes who showed themselves favourable to the canvass of M. le Beschu; and the *juge de paix* of one of the cantons also officially requested the different mayors to give him immediate notice of any steps taken in favour of any candidate in opposition to that of the Government. Whatever may have been the object of this request,

it certainly came with a bad grace from the *juge de paix*, whose position required the most absolute impartiality, for he discharges functions analogous to those of the revising barristers in England, and determines as a court of appeal upon claims to vote, and thus forms, in effect, the electoral lists.

It may well be supposed that, with such an example set them by *M. le Préfet*, the underlings in office were not behind-hand in zeal. On Saturday, December 17—the day before the ballot, which was to open on Sunday morning after mass—the *sous-préfet* of Fougères, M. Thil, addressed a *private* circular to the mayors of the communes, which we will quote at length, as it is a remarkable document, and shows the sort of pressure put upon the country mayors to make them do their duty, by insuring as far as possible the return of the Government candidate :—

FOUGÈRES, 17th December, 1859.

MR. MAYOR,—The ballot opens to-morrow. I have the honour to remind you that it is your duty to open it immediately after the first mass; that you will have on the table (*sur le bureau*) a certain number of tickets bearing the name of M. de Dalmas, and no other; that it is important that persons of intelligence, and who can be relied upon (*personnes intelligentes et sûres*), furnished with tickets bearing the name of M. de Dalmas, should occupy the approaches to the town-hall, and protect the electors of your commune, who are so well-intentioned, against error and falsehood.

A *cantonnier* (road-labourer) will be placed, subject to your orders, during the two days of the ballot.

Three candidates are in presence :—M. de Dalmas, secretarial *sous-chef* of the Cabinet of the Emperor, candidate of the Government; M. le Beschu de Champ-savin; M. Dréo, son-in-law of Garnier-Pagès, founder of the Republic in 1848, one of those who decreed the forty-five centimes, of which you will have preserved the recollection.

M. de Dalmas represents the principle of devotion to the Government, to authority, to order, and he alone is able by his position to favour the development of the numerous interests of the *arrondissement*.

M. Dréo represents the Republic, Socialism, Destitution.

Between these two candidates in opposition, the claims of the Hon. M. le Beschu upon your suffrages ought to be obliterated before the interests of order and society, which are menaced.

Make the electors, Mr. Mayor, vote in a mass (*faites voter en masse*) for M. Dalmas, candidate of the Government, and by your enlightened and patriotic conduct you will serve at once the Government of the Emperor and the general interests of the country.

*The Sub-prefect of Fougères,*  
(Signed) THIL.

It is only fair to mention that this circular of M. Thil drew down upon him a reprimand from the Minister of the

Interior when it was brought under his notice, and he was told that the instructions contained in it exceeded the limit of 'administrative action.' We have no fault to find with the tone or manner of the rebuke; but the sub-prefect might fairly urge in his defence that he had done little more than copy the example set him by his superior officer, the prefect, who was not reprimanded.

It is amusing to see the terms in which poor M. Dréo, 'son-in-law of Garnier-Pagès, founder of the Republic in 1848,' is here spoken of. 'M. Dréo represents the Republic, Socialism, Destitution (*la misère*)!' and this flattering description is given of him by a gentleman who most probably was *sous-préfet* under the Republic, and perhaps owed his office originally to the very Government of which he now speaks in such contemptuous language. *Mais nous avons changé tout cela*, and a sneer at the Republic comes well from official lips under the Empire. The Imperial Government, however, did not run much risk as to M. Dréo's chances of success, for in fifty-eight communes he did not get a single vote, and in thirty-six others he only polled 141 votes altogether. The contest, if contest, under the circumstances we are about to detail, it can be called—*si rixa est ubi tu pulsas, ego vapulo tantum*—lay between M. de Dalmas and M. le Beschu. Before, however, we come to the actual ballot, and what took place there, let us see the mode in which official bribery and corruption were brought to bear upon the election.

In order to understand this, we must bear in mind the great influence and power of a French prefect, who is a functionary very different from any we are familiar with in this country; and it is difficult to institute a comparison where little or no resemblance really exists. It used to be said that the three most despotic beings in the world were a Turkish pacha, a captain of a man-of-war, and a Winchester prefect. We will not assert that the French prefect is absolutely despotic, but he is the direct organ of the supreme executive in his department; he is the channel of Government patronage and favour, and is altogether, in the eyes of the inhabitants, a very awful personage. We may imagine therefore the effect of his personal interference at an election upon the ignorant community of the rural districts of France, where he is re-

garded not merely as the direct representative of Government, but is in some measure the impersonation of the Government itself. Government places are only to be obtained through him. He is the dispenser of Government patronage—the redresser of public grievances in his district—the interpreter of the wants and wishes of the inhabitants to the minister in Paris. He is, in short, the great man of the department, and his visit to a small provincial town or village is an epoch in its history. To be noticed by *M. le Préfet* is there an event in a man's life; and the fact is treasured amongst the family recollections, as in Beranger's well-known song, *Les Souvenirs du Peuple*, the old lady tells her admiring grandchildren that she was once spoken to by the first Napoleon—

Il me dit, 'Bonjour, ma chère,  
 Bonjour, ma chère.'  
 Il vous a parlé, grand'mère,  
 Il vous a parlé !

Fancy, then, the flutter produced amongst the rustics of Brittany by *M. le Préfet* accompanying M. de Dalmas in his canvass, and personally introducing him to the electors. And having once embarked in the contest, M. Feart was determined not to mince matters, but to make all the use possible of the name of the Emperor himself. He delivered speeches, in which he said (the oily flatterer!), alluding to a visit paid by the Emperor to Brittany the previous year—

The Emperor has not forgotten the reception he met with here last year. He has asked himself what he could do for your excellent population. A vacancy having occurred in your representative, *the idea has occurred to the Emperor*—that it might be filled up by one of the first functionaries of his household—a man near his own person—who will be able to give him information about your district, and speak to him daily about your wants ! M. de Dalmas, then, is as good as the Emperor for you (*est donc l'Empereur pour vous*), and you ought to return him in gratitude to the Emperor, for all that he has done and will still do for Brittany.

The prefect took care also to introduce M. de Dalmas to the *curés*, who have naturally and properly no inconsiderable influence over the rural population in France; and significant hints were thrown out as to the advantages that would result to the sacred edifices under their care if he were elected. If the parish church wanted repair, M. de Dalmas was the man who had interest enough to find funds for the purpose. He told them, 'If I am elected, I hope to obtain *from Govern-*

ment a grant for the restoration of your church.' One old gentleman, who was not inclined to be caught by the bait, rather disconcerted the canvasser by his matter-of-fact answer. When he was asked, 'Don't you think of rebuilding your church?—it seems very old,' he replied, 'Ah! sir, I am too old to handle the trowel—I must leave that business to my successor.' But others were more alive to their own interests, and it is no wonder, therefore, that in his Sunday sermon in one of the churches which was too small for the congregation, a priest called upon his hearers to vote for M. de Dalmas, exclaiming, 'Vote for him, and you will vote for the enlargement of our church.' Large sums were also promised for making and repairing roads; and at Bazouges, where a good deal of interest was felt in the construction of a new bridge, the prefect openly told the municipality, that if they *voted right* (*s'ils votaient bien*), he would allot fifteen thousand francs for the purpose. At St. Aubin he declared that the question of establishing an imperial domain in that locality depended on the result of the election.

But hints and promises were not enough. *M. le Préfet* availed himself of his official position to bribe the communes by a rather lavish distribution of the moneys voted by the *conseil-général* of Ille-et-Vilaine, the application of which, in certain proportions, depended very much upon his discretion, but of which *not one farthing* ought to have been appropriated to electioneering objects. Part of these funds had been voted for the relief of the poor—or what we should call a poor-rate; part for the purchasing of fire-engines; part for the building and furnishing of school-houses and residences of the mayors; part for infirmaries and hospitals: and the proper proportion which the *arrondissement* of Fougères and Vitré was entitled to receive out of this was one-fourth, but in reality it received considerably more; and the only reason was, that a Government candidate was on the field, strenuously supported by the prefect, who had the disbursement of the money. We need not mention the images of Christ, and busts of the Emperor and Empress, which he was generous enough to give to the village schools—but all out of the public purse, and just before the election.

But this was not all. A road was in the course of construction from Vitré to St. Malo, and the question was whether it

should go through the town of St. Aubin, the streets of which were narrow and crooked, or pass outside the town. The engineers wished to give the go-by to the town, but the inhabitants were strongly opposed to this, as they thought they would lose in some degree the benefit of the road. The prefect adroitly availed himself of the dispute, and told the inhabitants that if they elected M. de Dalmas, he was just the man to get the road made through the town, for a word *from him* to the Emperor would be sufficient.

At Saint Brice, the *cabaretiers*, or, as we should call them, keepers of beer-houses and wine-shops, told the prefect while he was openly canvassing for M. de Dalmas, that they would vote to a man for him, and do all they could to induce their customers to vote also, if he would allow them to keep their houses open until ten o'clock, instead of closing them at nine, as the law required. M. le Prefect immediately gave them the permission, and of course secured their votes. In a particular canton of the department, several of the communes had petitioned for the withdrawal of a commissary of police, not on the ground of any personal objection to that office, but on account of the expense. Nothing, however, was done until M. de Dalmas came into the field, when the commissary was withdrawn, and it was publicly announced that the suppression of the office was due to his influence at headquarters.

The rural postman also, who holds his place at the pleasure of the prefect, was converted into an electioneering agent. He was furnished with a quantity of M. de Dalmas's tickets, and when, after giving his well-known knock at a cottage door, he found a voter in possession of one of M. le Beschu's cards, he begged him to exchange it for one of the right sort—that is, one of M. de Dalmas's—saying, 'You may get into a scrape (*vous pouvez vous compromettre*). Take this ticket; I bring it by the order of *M. le Préfet*, who wishes no other card to be put into the ballot-box.' And as the electors might naturally imagine that, the essence of vote by ballot being secrecy, they might drop into the box any ticket they pleased without betraying themselves, they were told that the paper of M. le Beschu's tickets was different from that of M. de Dalmas, and not so transparent; so that the mayor who presided at the table on which the ballot-box was placed, would not fail to recognise



the ticket, and he would take care to remember the names of those who voted for M. le Beschu. What a practical commentary upon the protection the ballot offers to the voter in France!

Public-house keepers were also warned that if they supported M. le Beschu their licences would be withdrawn; and one of them, whose opposition sympathies were known, was openly told that he was the first who should suffer. So much for the regard paid to Article 39 of the Organic Decree of February 2, 1852, which provides as follows:—

Those who, by acts, violence, or threats against an elector, whether by making him fear the loss of his employment, or the exposure to risk of his person, his family, or his fortune, shall have determined him to abstain from voting, or shall have influenced his vote, shall be punished with imprisonment, varying from one month to one year, and a fine varying from a hundred to a thousand francs. The penalty shall be double if the guilty person is a public functionary.

But to show the lengths to which intimidation was practised, we cannot do better than tell the story of a poor postman, which M. le Beschu offered to prove upon oath, if an inquiry were granted him by the *Corps Législatif*, and which may be taken as a type of the sort of petty tyranny that goes on at elections in France, where Government officials have such overweening power.

At Saint-Ouen-de-la-Rouërie, a M. B——, an old friend of M. le Beschu, had a country house, where he kept up an establishment, consisting, amongst others, of a gamekeeper, a gardener, and a bailiff. The bailiff was named Dussuel, and he also acted as rural postman for the neighbourhood, filling thereby two offices which would not be thought very compatible in this country. M. B—— sent a packet of M. le Beschu's tickets to his gamekeeper and gardener for distribution, but expressly told Dussuel to have nothing to do with them on account of his connection with the post-office. Dussuel faithfully observed this injunction, and was therefore not a little surprised and alarmed at being summoned by the *sous-préfet* before the *juge de paix*, and charged with having distributed M. le Beschu's tickets; and engaged in opposition to the Government! The bailiff postman stoutly denied the accusation, which was utterly false; but the only answer he got from the *sous-préfet*, who seems to have cared little for the presence or opinion of the *juge de paix*, was, 'I tell you

you are suspended, and I shall apply for your dismissal.' Dussuel, who was a widower with five small children dependent upon him, implored the aid of M. B——, who immediately went to the prefect and told him the facts of the case; upon which an investigation took place, and it was proved that Dussuel had not carried a single ticket of M. le Beschu, but several belonging to M. de Dalmas. Still the sub-prefect was not satisfied, and he was allowed to institute a fresh inquiry, in the course of which Dussuel, to confirm his assertion of his innocence, was incautious enough to put into the hands of the sub-prefect the letter of M. B——, in which he had expressly forbidden him to distribute M. le Beschu's cards. Mark now the perverse ingenuity of the *sous-préfet*, worthy of the astuteness of a Turkish Cadi. He declared that the letter itself was Dussuel's condemnation; 'for,' said he, 'this postman has not distributed opposition cards because M. B—— told him not to do it: *it is plain, then, that he would have distributed them if M. B—— had not told him not to do so*: in consequence, I demand his dismissal.' This, however, was going a little too far for even *M. le Préfet* and he contented himself with ordering Dussuel to act as postman in a different part of the country. The Postmaster-General (*le directeur général des postes*) was then appealed to, and the result was that Dussuel was allowed to retain his former district, but on the express condition that he was to give up his employment as bailiff to M. B——, and not to act as postman to the town of St. Ouen.

In another part of the electoral district, a poor fellow, who filled the offices of grave-digger and bill-sticker, was deprived of both places by the mayor, on the ground that he had distributed M. le Beschu's tickets; and when he had cleared himself from this heinous charge, he was restored only on condition that he would distribute M. de Dalmas's tickets, and vote *right*.

After this it is needless to say that the whole body of Government *employés*, from the *préfet* to the *cantonnier*, including *sous-préfets*, *maires*, *gendarmerie*, *instituteurs primaires*, and *facteurs*, was arrayed against M. le Beschu, and left no stone unturned to throw difficulties in his way, and secure the return of M. de Dalmas, '*candidat du Gouvernement*,' and '*un des premiers fonctionnaires de la maison de l'Empereur*.'

Threats, promises, intimidation, flattery, espionage, all were resorted to, lest in an obscure part of Brittany the inhabitants might be blind enough to choose as their representative a gentleman of excellent character and high position, who resided amongst them, and was well known to them personally, in preference to an utter stranger, whose only recommendation was that he was *Sous-chef du Cabinet de l'Empereur*.

We come now to Sunday December 18, the day when the ballot commenced; and we will fix our attention upon a single commune, that of Louvigné-du-Désert, in which the estate of Champsavin, belonging to M. le Beschu, is situated, and where, he frankly tells us, the efforts of the prefect and sub-prefect had been most active against him, as they not unreasonably supposed that he would there be most likely to obtain a majority of votes. It will, however, serve as a specimen of the *modus operandi* in the other communes of the district.

The scene opens at the town-hall, or *mairie*—time just after morning mass. A body of functionaries, all in the employ of Government, were stationed in two rows between the church and the hall, forming a sort of lane along which the voters had to pass on their way to the ballot-box. Like the touters who surround the traveller on his arrival by the steamboat at Calais or Boulogne armed with the cards of their different hotels, these functionaries thrust the tickets of M. de Dalmas into the hands of the countrymen, and did all in their power to make them throw away those of M. le Beschu. After thus running the gauntlet outside, the electors entered the town-hall, where they found the mayor seated at the table with the ballot-box before him, and a heap of M. de Dalmas's tickets ready for use, but not a single ticket of M. le Beschu. The law requires that the tickets shall be folded (*fermés*), and it is usual to double them twice, in order, of course, to conceal as much as possible the name of the candidate for whom the elector votes; but on this occasion the mayor took care to half unfold the paper after it was put into his hands, and feel it with his fingers (pray do not forget the hint about the difference in the quality of the paper of the two set of tickets), on the pretence that there might be two tickets folded together; and when, by this process of palmistry, he discovered.

that the vote was intended for M. le Beschu, he had the effrontery to tell the elector that he was voting against 'the pump and the market,' both which, it seems, wanted funds for completion, and stood in need of the powerful assistance of M. de Dalmas, *de la maison de l'Empereur*. And to prove the utter worthlessness of the ballot as a protection in such a place as Louvigné-du-Désert (and of course there are a vast number of such places in France), M. le Beschu declares that, when a pauper who received parish relief in the shape of a few loaves of bread weekly, and who had voted on this occasion for him, went, after the ballot, to get his usual pittance of food, the mayor would not let him have any, but sent him away, exclaiming, '*Va trouver M. le Beschu !*'

In one of his circulars the prefect had directed the mayors to inform him of the number who voted on the Sunday before the next day's voting began, and M. le Beschu asserts that in several of the communes they carried their zeal so far as to *open the ballot-box* on the Sunday evening, and sent the results to the prefect. The boxes were then closed for the operations of the morrow. Well may he ask, '*Devant qui et par qui cette operation a-t-elle été faite ?*' and affirm that it is in direct defiance of the provisions of the law of February 2nd, 1852.

What shall we say, however, of the following incident, which also M. le Beschu offered to prove by witnesses before the Corps Législatif?

In one of the communes the persons present at the final opening of the ballot-box were the mayor, an officer called *adjoint*, the secretary, and a spectator. Who this spectator was does not appear; we simply give the fact as M. le Beschu records it. In the list of the electors the names of those who had actually voted were marked with a cross, and the mayor observed that the number of these was small. He took up the list, and as he perused the names, he said, 'So-and so did not come; but his intention was to vote for M. de Dalmas.' Thereupon the mayor made a cross beside the name, *and put a ticket into the box*. This operation he repeated several times. While he was thus employed, a woman came into the room, and said, 'Here is my husband's vote, which he has sent me to bring, as he cannot come himself.' 'All right,' answered the mayor, and dropped the paper into the box, making the

cross at the same time beside the absentee's name. This sort of proceeding, however, rather alarmed one of the assistants, who appears to have had a dim suspicion that it was not 'all right ;' and he said, 'But, Mr. Mayor ! what you are doing seems to be rather serious.' On which the Mayor replied, 'I have received orders to act thus ;' and of course the objector was silent.

It seems, in truth, to be one of the incidents of the ballot to manufacture votes. Thus, in a case which came before the *Tribunal Correctionnel* of Blanc, a town in the department de l'Indre, in the month of August 1858, the mayor of Blanc and several other persons were charged with various illegal acts in the election of a member of the *Conseil général*, which had recently taken place ; and the mayor in particular (who, it will be remembered, presides over the voting, and has the custody of the ballot-box), with having opened the tickets which were handed to him folded up ; with having put into the box tickets for electors who never came to vote at all ; and with having made one elector vote twice over, and allowed another to put in a ticket for a voter who was absent.

And lest it should be supposed that this is an extreme case, we will mention another of a still more flagrant character. In a commune in the neighbourhood of Troyes, where a M. Leopold Javal was the candidate in opposition to the Government, when the ballot-box was opened, only three votes were found in it for him. This caused considerable surprise amongst the electors, as on comparing notes they discovered that more than eighty had in reality given their votes for him ; and so much was said about the fraud that had been practised, that the mayor felt himself compelled to accuse some of the most prominent of the grumblers before the *procureur impérial* of defamation. The case came before the *Tribunal Correctionnel*, and more than forty witnesses were examined on oath, who all swore that they had given their votes for M. Javal. At this stage of the proceedings the president of the court addressed the advocate of the accused, and asked him whether it was necessary to carry the case further. He replied that he had by no means exhausted his list of witnesses, but if the court was satisfied, he was ; upon which a judgment of acquittal was immediately pronounced. We admire the boldness or

rather the effrontery of the mayor in challenging this inquiry ; but we suppose that he hoped that the electors would be afraid to come forward and convict him of the fraud.

By way of commentary upon such proceedings as we have here detailed, and to contrast the practice of universal suffrage in France with the pompous theory of the law on the subject, we will now quote one or two passages from a judgment delivered by the *Cour de Cassation* in January 1857, in which the court said :—

It is especially under the empire of universal suffrage that it is of importance to take care that the exercise of the electoral right does not degenerate into an abuse ; that one of the most momentous duties of civil life be accomplished loyally, without surprise, without fraud, and that the election be the (result of) will of all those who take part in it, and not the work of individuals without commission and without responsibility. In thus explaining the law, the right of the elector and the candidate remains independent of the Administration, and he may exercise it in complete liberty.

Brave words these—but *quid prosunt leges sine moribus* ? What is the use of a written election law to secure the independence of the voter, if it is constantly violated in practice by a whole army of Government officials ? The liberties of France would have a better chance if the Emperor had the legal right to nominate directly a simple majority in the Chamber, and he were to leave the minority to the free choice of the electors, without the slightest interference on the part of the prefect and his subordinates. As matters stand at present, he returns his own creatures, under the mask of deputies freely chosen by the people.

When the ballot-box was opened at Louvigné-du-Désert, although only 771 persons had votes, it was found that there were 780 tickets in the box, and in almost every commune similar discrepancies occurred. This shows that there was fraud somewhere ; and after the narrative of facts we have given we think it will not be difficult to decide whether it was on the part of the voters or the officials. It reminds us of a passage in the speech of the facetious deputy Guerrazzi in the Sardinian Parliament a short time ago, who said, ‘At Lavenzo the number of voters registered was 402, and out of the urn came 476 votes. Talk of the miracle of the loaves and fishes !’

The final result of the contest was that M. de Dalmas was

returned by an immense majority over M. le Beschu, the numbers being—

For M. de Dalmas	.	.	.	.	.	.	.	.	25,590
For M. le Beschu	.	.	.	.	.	.	.	.	2,821
For M. Dréo	.	.	.	.	.	.	.	.	996

The total number of electors in the list was 39,404, so that 9,997 abstained from voting.

Upon these facts M. le Beschu addressed a *Protestation* to the *Corps Législatif* against the return of M. de Dalmas, and prayed the Chamber to annul the election of a representative in the united arrondissements of Fougères and Vitré that took place on December 18 and 19, 1859. He offered to prove by witnesses on oath, before commissioners to be appointed, the facts which he had averred in his protest, in case the Chamber should not consider the circulars of the prefect and his subordinates, and the matters of public notoriety mentioned in the protest, sufficient to induce the Chamber to declare the election null and void.

M. le Beschu's petition was referred to a committee of the Chamber, and a sort of preliminary inquiry was held by them, at which M. le Beschu and several other persons were present, and statements were made both on behalf of the petitioner and also of the authorities implicated. The result was that the committee, by a majority of 19 to 12, agreed to report to the Chamber that the commission of inquiry prayed for ought not to be granted, and that M. de Dalmas should be declared duly elected to serve 'for the third electoral circumscription of the department of the Ille-et-Vilaine.' This gave rise to a spirited debate, which will be found reported in the 'Journal des Débats' of the 24th of March last, and which is well worthy a perusal. The report of the committee went at considerable length into the allegations contained in M. le Beschu's protest, and declared that the circular of M. Thil, the sub-prefect of Fougères, which we have quoted at length, was *regrettable*, and evinced a degree of zeal which nobody could approve of. That it was, however, the isolated act of a public functionary, without authority from his superiors; and owing to the late period at which it appeared, it could have had no influence on the result of the election. That the facts alleged by M. le Beschu were not within his own personal

knowledge, but rested on the information given him by others. 'And what danger there was to truth in the passage from mouth to mouth of such statements, and how many alterations they might have undergone before they reached him !' (The committee here seems to have forgotten that M. le Beschu's application was to have these very statements verified upon oath by persons who could speak from personal knowledge.) That besides, in one particular affecting the Archbishop of Rennes, M. le Beschu had, in the opinion of a majority of the committee, been shown to be inaccurate, and therefore his other statements ought to be received with great caution, as founded on misapprehension and mistake. Finally, that the immense majority of M. de Dalmas over his opponent was decisive of the question. They said—

A majority so imposing cannot be obtained on the ground of abuse of authority and influence. Individuals disappear in the infinite ramifications of universal suffrage. [We are translating literally.] There remain only the masses, whom it would be in vain to attempt to turn aside from the different currents that draw them in ; and if, speaking strictly, one could comprehend a system of intimidation capable of making them abstain from voting, it is impossible to imagine an intimidation capable of making them vote contrary to their wishes.

The above was the substance of the report, in which not a word was said of the promises made, and the inducements held out, by the prefect and his subordinates, to the ' masses ' in the different communes, provided only they voted right (*s'ils votaient bien*), and which, considering the enormous amount of Government interference in France with matters which with us are left in the hands of parish vestries and local boards, were nothing short of bribery on the most extensive scale. The conclusion, however, at which the committee had arrived was vigorously attacked in the *Corps Législatif* by M. Plichon, M. Picard, and others ; and M. Picard, who was himself a member of the committee, said that the Count de la Ribosière, a senator and president of the *Conseil général* of Ille-et-Vilaine, had declared before them that, during the election, terror prevailed in the district of Vitré and Fougères, and had mentioned facts that proved that intimidation, fraud, and bribery (*seduction*) had been resorted to. But the most interesting part of the debate was a speech made by M. Baroche, President of the Council of State, who enunciated certain principles which go far to explain the conduct of the officials in the



particular case complained of, and also to explain the majorities which the French Government is able to obtain at elections. After declaring that France was as honoured and as *free* now as she had ever been, he said—

While I proclaim the advantages of universal suffrage, I think there would be danger in abandoning it to itself, as one of the previous speakers has seemed to wish. During the continuance of restricted suffrage, certain electoral colleges did not contain more than 150 voters, and sometimes 76 or 80 votes were enough to return a deputy. One can understand that in presence of so small a number of electors, all occupying a certain social position, there was no room for the intervention of the Government. But we must not forget that on the 18th and 19th of December last, 39,000 electors were convoked in the department of Ille-et-Vilaine to choose a deputy; *and were they to be abandoned to themselves—that is to say, to all their local passions? The duty of the Government was to enlighten them, and it had the right to recommend publicly the Government candidate.* As a general proposition, I admit that it is a good thing that places should be represented by men locally known there; but all systems of electoral legislation have allowed that strangers may also be chosen. This is especially necessary in the case of local quarrels and dissensions; and the best mode of putting a stop to them is the introduction of a candidate who is a stranger. If the Government did not indicate its candidate—if it did not recommend him to the electors—if it did not try and insure his success by all honourable means, it would be wanting to its own rights, and would fail in its duty. *Universal suffrage which declares itself with such an imposing appearance (avec un ensemble si admirable), when he who is to be elected is placed so high that all feel and know the interest they have in the choice they are about to make—[Oh, M. Baroche! we know well to whose election by seven millions you are now alluding.]—universal suffrage, I say, becomes less enlightened in proportion as the person to be elected is nearer to the electors.* If, in that case, local passions were left without direction, universal suffrage might become, not, as some one has improperly called it, an universal mystification, but a great danger. The Administration has its candidate. Again I say, it is right and its duty. I, the organ of the Government, declare it without hesitation.

The question was put to the vote (by ballot) whether the report and recommendation of the committee should be adopted, and there appeared 123 in favour of it, and 109 against it.<sup>1</sup> So M. de Dalmas was declared duly elected, and the *Sous-chef du Cabinet de l'Empereur* now sits in the French chamber as representative of the third circumscription of the department of Ille-et-Vilaine.

Although we have selected the case of M. le Beschu for the purpose of giving a detailed account of the proceedings at the election at which he was a candidate, it must not be supposed that it is an isolated or exceptional instance. We have before us documents which prove that the interference

<sup>1</sup> This was a large minority, but it must be remembered that the vote was taken by *ballot*. It shows that the case

was a flagrant one—so flagrant that even a submissive Chamber could hardly suffer it to pass.

at elections of the *employés* of Government in France, and the unscrupulous use by them of all the influence which their position gives them, is the constant and habitual practice. In a *mémoire* or 'case,' drawn up in June 1857 by M. Jules Brame, who was a candidate at a general election in the Department du Nord, and whose opponent was M. Descat, the former deputy for the district, we find the prefect, M. Besson, addressing the mayors of the electoral district in a circular, in which he said—

The Government of the Emperor, to whom the country owes its grandeur and prosperity, recommends (*désigne*) M. Descat to the choice of the electors.

And in another circular he said that to vote for M. Brame would be—

• An unjustifiable act, unworthy of the loyalty of the population. Let us not,' he continued, 'accustom the country to ingratitude. It is a pernicious example, which can only compromise the future. The Government of the Emperor, in its sense of justice for services rendered, recommends to you M. Descat. You will, M. le Maire, I am sure, exert yourself to the utmost extent of your power to do all that is necessary to insure the success of his election . . . . *It must be made generally known that opposition candidates have not the power to realise the promises they make.* It must be made known that, in rejecting M. Descat, the electors are voting against a Government which has done everything for their prosperity, and which they would attempt to enfeeble by giving votes which would be an act of hostility towards it . . . . To vote for M. Brame is to give support to the enemies of the country, who are not afraid to raise up their heads.'

In this contest it was curious to see the eagerness with which both the candidates asserted themselves to be Protectionists, and the indignation with which each repelled the calumny that he was favourable to Free Trade. Thus M. Descat, in an address to the electors, said—

I am well known to you ; nevertheless, malevolence hawks about (*colporte*) calumnies against me with such unwearied pertinacity that I owe you an explanation. It is said that I am a Free-trader. It is an ENORMITY, against which my past life and all my interests alike protest.

On the eve of the election, M. Brame was attacked in an article of a local newspaper, and charged with having forged a document for electioneering purposes. M. Brame naturally wished to give an instant denial to so odious an accusation, but he was actually told by the *Procureur Impérial* that he was too late, and that as the twenty days allowed by law, during which time alone a candidate is permitted to issue placards and notices relative to his election, had just expired, he could

neither placard his denial on the walls, nor insert a paragraph in the newspapers, declaring that the charge was false. So that, according to this, a man who ventures to oppose a Government candidate in France may, at the most critical moment, just before the election, be made the object of the most calumnious attacks—carefully reserved until the twenty days in which he is permitted to address the electors have elapsed—and he is not to be allowed even the liberty of denying them.

Another ingenious mode of stifling opposition at elections is to prevent as far as possible the cards of the obnoxious candidate from getting into the hands of the electors. This is done by attempting to put in force the law relating to *colportage*, and declaring that all who distribute the cards or tickets are acting as unlicensed hawkers, and so are guilty of a misdemeanour.

The *colportage* law is part of the *Loi du 27-29 Juillet 1849, sur la Presse*, and is in the following terms: 'All distributors or hawkers of books, writings, pamphlets, engravings, and lithographs, shall be obliged to be furnished with an authority (or licence), which shall be delivered to them for the department of the Seine by the prefect of police, and for the other departments by the prefects.' And the penalty of contravention is fine and imprisonment. We cannot state that any French court of justice has actually held the distribution of electoral cards to be within scope of this law, but we know that individuals have been brought before *juges de paix*, and charged with it as a penal offence. And in one case a candidate was himself arrested for handing about his own cards in a market-place! At a late election which took place for the arrondissement of Pont de l'Evêque, which embraces part of the coast of Normandy, the report was carefully spread that if the Government candidate did not obtain an imposing majority, there would be a general impressment of seamen, and that those who were known to exert themselves for the opposition candidate, would be compelled to sail in the expedition to China. And to such an extent was the system of Government interference carried, that none of the licensed victuallers (*débiteurs de boissons*) dared to receive the addresses and cards of the opposition candidate, and they positively refused them,

knowing well that they were at the mercy of the prefect, who could, if he pleased, make them close their houses. In one of the communes of the arrondissement of Lisieux, the commissary of police threatened a distributor of some opposition tickets on the eve of an election, that if he did not desist, his son, who was away from his regiment on furlough on account of health, should be immediately recalled to active service, and of course the threat was effectual. Sometimes opposition placards are torn down by or in presence of the authorities, whose zeal, although sometimes, as in the case of M. Thil, it overshoots the mark, is quickened by the hope of thereby recommending them to the favour of Government, the absolute dispenser of every kind of patronage in France.

We might go on multiplying such instances to an indefinite extent, but we think we have said enough to illustrate the way in which M. Baroche's maxim as to the necessity of not abandoning electors to themselves, and of enlightening them with respect to the performance of their duties, is practically understood and carried out by the authorities ; and how universal suffrage may and does become universal ' mystification.' We have seen the enormous amount of influence, both direct and indirect, which the Imperial Government brings to bear upon elections—the promises, the threats, the frauds, which are employed to secure the return of the Government candidates ; and how, then, can we accept the results as a fair test of the political opinions of a majority of the population ? When the masses are told by their prefects, who have the power of verifying their own predictions, that unless they return a particular deputy the roads of the commune will not be repaired, and the bridges not rebuilt, that the parish church will be allowed to fall into decay, and no public money will be spent on the district—how can we wonder that they vote as they are bid, and become passive instruments in the hands of Government. To us, we confess it seems to be little short of a miracle that any opposition should succeed, and we admire the moral courage of the men who venture to confront the serried phalanx of officials, with all their machinery of power, patronage, and means of annoyance at command. They run in a race where the competitors are so unfairly weighted as to make the chance of victory on the side of opposition almost impossible.

But it may be said that opposition members do sit in the *Corps Législatif*—and how did they get there if the system at elections is such as we have described? We answer first, that it would not serve the purpose of the Imperial Government not to have even the show of an opposition in the Chamber—that would be too transparent a mockery; and, secondly, public opinion is not so utterly powerless and dead in France as to make it safe to attempt such practices in the larger towns. It is therefore quite consistent with all we have here stated, that M. Emile Ollivier should be elected in Paris, and M. le Beschu de Champsavin rejected in Brittany.

We will, in conclusion, quote one or two passages from the writings of the present French Emperor, which deserve to be carefully studied, as containing the opinions of a man who, more than any other in Europe, has the power to convert his ideas into facts. In a short essay on the electoral system which he published in 1840, in 'L'Idée Napoléonienne,' intended to be a monthly periodical, but of which only one number ever appeared, after proposing a system of electoral colleges based on universal suffrage, he says:—

In a well-organised body two contrary currents must always be perceptible; one rising from the base to the summit, the other descending from the summit to the base.

This influence of the Government, which must be felt in the lowest classes of the people, and the authority of popular will, which even the head of the State must acknowledge, must act and react by mutual degrees in the ascending as in the descending current.

When the people vote in a body in the public street, and give their suffrage directly, it is as if all the blood of the body rose to the head, and the consequence is discomfort, congestion, giddiness.

Even the interests of the people are inadequately represented, because reflection and judgment have no influence over the elections; only passion and excitement of the moment direct the vote.

A striking example of this truth presents itself in the democracy of the Swiss cantons. The people assemble in a body on the public place to choose their representatives; yet, though they enjoy the plentitude of power, the retrogressive spirit is firmly implanted in the minds of the people in their Swiss cantons. There is no ancient prejudice which they do not sanction in their popular assemblies, and no improvement which they do not reject.

In France just the contrary takes place. *In our election system, founded on fear and privilege, the influence of the Government acts directly on the people, and this influence, which might nevertheless be enlightened and protective, acts by corrupting the consciences of the people, by deceitful promises, by making a real political traffic of the votes of the citizens.*

Such is the character given by Prince Louis Napoleon of

the action of the Government on the electoral system twenty years ago. It then, according to him, corrupted consciences and trafficked in votes. At the present moment, Napoleon III. wishes the world to believe that under the Imperial *régime* it is 'enlightened and protective.' But, after the facts we have adduced, we leave it to everyone who reads this article to declare whether the Emperor has not, in the above passage, pronounced his own condemnation, and given a true description of the system now practised in France ; and whether universal suffrage and vote by ballot in that country are not 'a mockery, a delusion, and a snare.'

## *A JOURNEY TO ASHANGO LAND.<sup>1</sup>*

‘Quarterly Review,’ 1867.

WHEN Mr. Du Chaillu published, in 1861, his ‘Explorations in Equatorial Africa,’ the book met, in several quarters, with an unfavourable, not to say hostile reception. Some of his critics went so far as to assert that the work was a fiction, and that the author had not travelled in the interior of Africa at all. It is not necessary to confute insinuations which nobody now pretends to believe ; but we do not deny that the volume was open to adverse criticism, and that the narrative involved contradictions which it was difficult to explain. There was a confusion of dates, and also a confusion of journeys, which made it difficult to explain some points of the narrative, and certainly the most was made of these discrepancies and mistakes. We who had examined Mr. Du Chaillu’s original journals never doubted for a moment the main truth of his narrative, although we saw that, owing to the manipulation of a literary hand in preparing his book in America, his published work mixed together separate journeys, and betrayed a strangely involved chronology. It was on these grounds that the maps drawn up by Dr. Barth and Dr. Petermann in 1862 moved all the positions of the places he had visited much nearer the coast than he had fixed them, so as to reduce greatly the length of his routes. We all know how the accounts of the gorilla were discredited by those who had never an opportunity of witnessing the animal’s habits, as only one or two stuffed specimens had reached the museums of Europe. Some writers asserted that Mr. Du Chaillu had never seen the creature alive, and that the specimens he brought or sent to

<sup>1</sup> *A Journey to Ashango Land and Africa.* By Paul B. Du Chaillu. *further Penetration into Equatorial* London : 1867.

England had been purchased by him from natives on the coast. Several naturalists declared that the habits he ascribed to the strange brute—such as that of beating its breast violently when enraged—were contrary to all experience of the ape tribe, and incredible. Mr. Du Chaillu was the first to make known to geographers the existence of the Fans, a cannibal tribe, who in recent times, have rapidly made their way from the interior, urged by the thirst for trade and European commodities, and have now actually reached the coast. But their very existence was denied; and the statement that some of the native African harps had strings made of vegetable fibre was declared to be false.

Under such imputations Mr. Du Chaillu was unwilling to rest, and he resolved to confute his opponents by the logic of facts, that is, by undertaking another journey into the interior of Africa and furnishing himself with materials to prove conclusively the substantial truth of his former narrative. It is impossible not to admire the courage and enterprise he has shown, and we think also that he deserves the highest credit for the forgiving and generous tone in which he speaks of his assailants. He says in his Preface to the new work which we propose to review,—

Although hurt to the quick by these unfair and ungenerous criticisms, I cherished no malice towards my detractors, for I knew the time would come when the truth of all that was essential in the statements which had been disputed would be made clear; I was consoled besides by the support of many eminent men, who refused to believe that my narrative and observations were deliberate falsehoods. Making no pretensions to infallibility, any more than other travellers, I was ready to acknowledge any mistake that I might have fallen into, in the course of compiling my book from my rough notes. The only revenge I cherished was that of better preparing myself for another journey into the same region, providing myself with instruments and apparatus which I did not possess on my first exploration, and thus being enabled to vindicate my former account by facts not to be controverted.

The result, as regards the establishment of Mr. Du Chaillu's character for veracity, has been most satisfactory; and we set so high a value on the character of every man who labours to enlighten the world, as to deem this one gain not dearly purchased by the heavy losses and bitter disappointments in which Mr. Du Chaillu's second expedition has ended.

Meanwhile Dr. Petermann had made the *amende honorable* with regard to the position of the places which Mr. Du Chaillu



had formerly visited ; for, in 1862, a French Government expedition, under Messrs. Serval and Griffon Du Bellay, explored the Ogobai river, and not only proved the truth of the traveller's general account of it, but showed that the Ashira Country was not far from the longitude which he had assigned to it.<sup>1</sup> Dr. Pétermann, on receiving the French map, reconstructed his own as Mr. Du Chaillu had originally laid it down. As to the Fans, Captain Burton confirmed his statement, after having actually travelled amongst them ; and the French officers proclaim that their cannibal appetites are only too well authenticated, adding the fact of their recent apparition and migration towards the sea-coast. In his second expedition, Mr. Du Chaillu was not only able to observe the gorilla in the woods, but he obtained several fine specimens from the natives, and one of them he shipped for England alive, but unfortunately it died on the passage. He sent to England harps with vegetable strings, and they of course speak for themselves. In his former travels he had described a new kind of otter-like animal to which the name of *Potamogale velox* was given ; and he brought home with him its skin, which was all that he was then able to procure. It was asserted that the animal which owned the skin did not belong to the order under which otters are classed, and was a rodent ; but Mr. Du Chaillu was fortunate enough to have his conjecture entirely established by the Professor of Natural History in the University of Edinburgh: moreover, he obtained in his last journey several specimens of the *Potamogale*, and they entirely confirm his opinion. He has answered the doubts and insinuations which were so unscrupulously thrown upon his claims as a discoverer in Natural History, by adding to the Fauna of Africa at least eighty new species. But the best vindication of all is the series of carefully-made solar and lunar observations—amounting to several hundreds—which he has brought home, and committed to the officers of Greenwich Observatory, by whom they have been reduced and tested with the most satisfactory results ; so that the principal points of his journey

<sup>1</sup> In an article on *Le Gabon* in 'Le Tour du Monde' (1865), p. 278, Dr. Griffon Du Bellay says of Mr. Du Chaillu, 'Ce que je puis affirmer,

c'est que son livre contient beaucoup de détails d'une parfaite exactitude, et plus d'une peinture de mœurs réellement prises sur le vif.'

are now laid down on the map with unerring accuracy. Here is enough, and more than enough, to justify the countenance and encouragement which Mr. Du Chaillu received at first from such a geographer as Murchison, and such a naturalist as Owen. As in all similar cases, the stones wantonly, if not maliciously, thrown at an unknown man, have helped to raise the pedestal of his subsequent fame; and were Mr. Du Chaillu less generous than he is, he could afford to forgive the detractors who have goaded him to new efforts, and made him as accurate as he was already earnest in his work.

These feelings may be traced in Mr. Du Chaillu's statement of his objects in this second journey:—

I had also a strong desire to fix with scientific accuracy the geographical position of the places I had already discovered, and to vindicate by fresh observations, and the acquisition of further specimens, the truth of the remarks I had published on the ethnology and natural history of the country. Beyond this there was the vague hope of being able to reach in the far interior some unknown western tributary of the Nile, and to descend by it to the great river, and thence to the Mediterranean.

He took great pains to qualify himself for the successful prosecution of his task. Owing to the absence of all scientific instruments on his former journey, he had laid down the positions of places by compass bearings only, and this made it the more difficult to defend himself against attacks on his accuracy. But he now prepared himself by going through a course of instruction in the use of instruments, and the mode of taking astronomical observations. He also took lessons in the art of photography, providing himself with an ample store of materials in order to bring back faithful sun-pictures of the scenery, natives, and animals of the unknown regions he intended to explore—all of which, as we shall see in the sequel, were unfortunately lost.

He freighted a small schooner called the 'Mentor,' and sailed in her from England for the coast of Africa on August 6, 1863. He reached the mouth of the Fernand Vaz river on October 10, and it is interesting to see how warmly he was welcomed by the African chiefs whom he had formerly known. One of them who came on board hugged him in his greasy arms and exclaimed—

"Are you Chaillie, or are you his spirit? Have you come from the dead? Tell me quick, for I don't know whether I am to believe my own eyes; perhaps I am getting a fool."

But now came the first of a series of misfortunes which Mr. Du Chaillu had to endure, and which brought his expedition at last to a disastrous end. One of the causes which have shut out explorers from this part of the African coast is the want of harbours, and the savage surf that fringes the shore. The whole breadth of the mouth of the river was one uninterrupted line of breakers, through which it was necessary to land the cargo in native boats. In one of them he placed all his scientific instruments and many other valuable articles, and, accompanied by the Captain, embarked himself in the canoe, which was soon swamped by the waves. It was with some difficulty that their lives were saved by the negroes, who, as Mr. Du Chaillu says, 'swam under me and buoyed me up with their own bodies.' But all the astronomical instruments were spoilt by the salt-water, and with them went the power of effecting the principal object of the journey. We can hardly imagine a more bitter disappointment than this. However, there was no help for it, and all that he could do was to send to England for a second set of instruments, and to wait patiently until it arrived.

The region which Mr. Du Chaillu was about to explore lies between the first and second degrees of south latitude, and he intended to proceed eastward across the continent in almost a straight line from the coast. He says:—

Equatorial Africa from the western coast, as far as I have been, is covered with an almost impenetrable jungle. The jungle begins where the sea ceases to beat its continual waves, and how much further this woody belt extends further explorations alone will be able to show. From my furthest point it extended eastward as far as my eyes could reach. I may say, however, that near the banks of a large river running from a north-east direction towards the south-west prairie lands were to be seen according to the accounts the Ashangos had received.

The difficulties which beset the traveller who tries to penetrate into the interior are almost insuperable. Independently of the harbourless and serf-bound coast, the deadly climate, and the hostility of savage tribes, there is the supposed necessity of carrying an immense quantity of presents to propitiate the different African chiefs. A white man must literally buy his way with goods as he proceeds, and he becomes, of course, poorer, as he advances, so that it seems as if he must at last necessarily stop when he is farthest from the coast, and when it is most essential to satisfy the rapacity of the natives.

Perhaps the most prudent course would be not to carry presents at all, as they only excite the cupidity of the negroes. And Mr. Du Chaillu was kindly treated by the natives on his return when he had lost everything. For the transport of goods there are no beasts of burden ; neither horses nor camels nor asses nor oxen. The only domesticated animals are goats and fowls, and the only carriers of loads are the blacks themselves. They use for this purpose long narrow baskets called *otaitais*, which rest on the back, and are secured to the head and arm of the bearer by straps made of strong plaited rushes. Mr. Du Chaillu's baggage required at starting not fewer than a hundred porters, and infinite was the trouble and difficulty he had with the various relays which succeeded each other in his march. But he was fortunate in his body-guard of ten negroes, of the Commi tribe on the coast, who behaved admirably throughout, and to whom his return in safety was entirely owing. He says :—

I chose for my body-guard ten faithful negroes, some of whom had accompanied me on my former journey. It was on these men that my own safety among the savage and unfriendly tribes we might expect to meet with in the far interior depended. I knew I could thoroughly rely upon them, and that come what might they would never hurt a hair of my head.

While waiting for the arrival of fresh instruments from England, Mr. Du Chaillu made several excursions in the neighbourhood of the coast. The most important of these were to the wooded country which lies to the south-east of Cape St. Catherine, and which he believes is 'the head-quarters of the gorilla or the district in which he exists in the greatest number, but where he is wildest and most difficult to get near.' Here suddenly one morning he came upon a party of four of these brutes.

They were all busily engaged in tearing down the larger trees. One of the females had a young one following her. I had an excellent opportunity of watching the movements of the impish-looking band. The shaggy hides, the protuberant abdomens, the hideous features of these strange creatures, whose forms so nearly resemble man, made up a picture like a vision in some morbid dream. In destroying a tree they first grasped the base of the stem with one of their feet, and then with their powerful arms pulled it down, a matter of not much difficulty with so loosely formed a stem as that of the plaintain. They then set upon the juicy heart of the tree at the bases of the leaves and devoured it with great voracity. While eating they made a kind of clucking noise expressive of contentment.

Shortly afterwards, when Mr. Du Chaillu had returned to

the mouth of the Fernand Vaz river, three live gorillas were captured by the natives and brought to him. One of these was a large full-grown female, another her baby, the third a vigorous young male. The first two soon died, for the mother had been severely wounded, and her young one only survived her three days. But the male gorilla was christened Tom, and sent on board ship, consigned to Messrs. Baring in London. He died, however, on the passage, most probably of a broken heart, for the species seems to be untameable, and captivity fills them with uncontrollable rage. At a later period of his journey Mr. Du Chaillu came suddenly in the forest upon a whole group of gorillas disporting themselves amongst the trees, but he did not happen to have his rifle in his hand, and they escaped unharmed. Before quitting the subject, we may mention that he is now of opinion that gorillas and not chimpanzees, as he was formerly inclined to think, were the animals seen and captured by the Carthaginians under Hanno, as related in the 'Periplus.' 'Even the name "gorilla," given to the animal in the "Periplus," is not very greatly different from its native name at the present day, "ngina" or "ngilla," especially in the indistinct way in which it is sometimes pronounced.' In one of his preliminary excursions he discovered and caught two specimens of a new species of animal called the Ipi or scaly Ant-eater, belonging to the pangolin genus (*Manis* of zoologists), which lives in burrows in the earth, or sometimes in the large hollows of colossal trunks of trees that have fallen on the ground. One of their skeletons is now in the collection of the British Museum.<sup>1</sup>

At last, in September, 1864, Mr. Du Chaillu had received his new supply of instruments from England, and at the end of that month he started on his exploration into the interior. It will give some idea of the difficulty he had to encounter in

<sup>1</sup> The skeleton of another animal, very similar to the Ipi of Mr. Du Chaillu, was brought afterwards to England, and was said to have been found in the neighbourhood of the river Niger. It was described by Dr. Gray in the 'Proceedings of the Zoological Society,' April, 1865, under the name of *Pholidotus Africanus*. Mr. Du Chaillu says 'The specimen of *Pholidotus Africanus*, on which the describer of the species

founds his measurement, and the skull of which he figured, I have ascertained, by my own examination in the British Museum, is not the one said to be received from the Niger, but the specimen which I sent. The Niger specimen is very much smaller. I mention this, because Dr. Gray, doubtless through inadvertency, has omitted to mention my name at all in connection with the species.'

the transport of his goods, when we mention that he had no less than forty-seven large chests filled with them, besides ten boxes containing his photographic apparatus and chemicals, and fifty voluminous bundles of miscellaneous articles : in fact, a load for a hundred men. He dressed his body-guard of ten Commi negroes in thick canvas trousers, blue woollen shirts, and worsted caps, and each man had a blanket to keep him warm at night.

He had, however, been nearly prevented from setting out on his expedition at all. During his absence in Europe, the chiefs of the clans on the coast had met and passed a law that no Mpongwé (the trading tribe of the Gaboon), or white man, should be allowed to ascend the river Fernand Vaz or the Ogobai.

It is the universal rule amongst the coast tribes of West Africa to prevent if possible, all strangers from penetrating into the interior, even if it be only to the next tribe, through fear that they should lose the exclusive privilege of trading with these tribes. Indeed, every tribe tries to prevent all strangers from communicating with the tribe next in advance of them.

It was necessary to get this law repealed, and in November, 1863, a grand palaver was held on the subject in the village where Mr. Du Chaillu was staying. One of the most important chiefs, called Olenga-Yombi, a notorious drunkard, who presided at the meeting, had been propitiated by the present of a very long blue coat, the tails of which dangled about his ancles when he walked, and a light yellow waistcoat with gilt buttons. The debate took place in the Council-house of the village, a large open shed, where chairs were placed for the principal speakers. The result was that Mr. Du Chaillu was made free of the river, while the Mpongwé trader was still rigorously excluded. The speakers argued that the white man did not go into the interior to trade, but to shoot animals and bring away the skins and bones. 'Truly,' they said, 'we do not know what Chaillie has in his stomach to want such things, but we must let him go.'

In the beginning of October, 1864, Mr. Du Chaillu started on his journey. He first proceeded in two canoes up the Fernand Vaz river, and then up the Rembo and Ovenga rivers as far as the village of Obindji, where his overland route was to commence. Here the porters assembled who had been

sent from the Ashira country by king Olenda to carry the baggage ; but instead of a hundred porters, which was the least number required, there were only fifty. He was therefore obliged to send only half of the loads forward, and to wait for the return of the men to carry the other half. A friendly old chief, named Quengueza, who accompanied him from the coast, addressed the body-guard of Commi negroes before leaving Obindji, and gave them some excellent advice. He told them to look up to ' Chaillie ' as their chief, and obey him. He warned them not to touch plantains or ground nuts lying on the road, or in the street of a village, for this showed that it was a ' tricky village,' and the temptation was intended as a trap.

When a house is given to you in any village keep to that house and go into no other : and if you see a seat do not sit upon it, for these are seats which none but the owners can sit upon. But above all beware of the women.

After marching across a wild, hilly, and wooded country, the party emerged on the undulating grass land of Ashira, which Mr. Du Chaillu has described in his former volume,<sup>1</sup> and arrived at the village of Olenda on the 19th of November. Here he determined to try and visit the Falls of Samba Nagoshi, which are in the Ngouyai river, north of Olenda, and which he had in vain attempted to reach on his previous journey. His route lay parallel to the Ovigui river, which flows into the Ngouyai, and after two or three days' march through forest and swamp, he embarked in a leaky rotten canoe, not far from the point of confluence of the two rivers. The Ngouyai is a fine large river flowing northwards, which Mr. Du Chaillu discovered on his former journey, and when he now entered it he was, he says, up to this time the only white man who had ever embarked on its waters.

The Ovigui, at its junction with the Ngouyai, is about thirty-five yards broad, and is at this time of the year (the rainy season) a deep stream. The banks are clothed with uninterrupted forest, leaving only little entrances here and there at the ports of the villages which lie backwards from the river. Silence and monotony reign over the landscape, unenlivened by the flight and song of birds or the movement of animals.

On approaching the rapids below the falls, the party left the canoe, and scrambled along the bank. A rocky island in

<sup>1</sup> 'Adventures in Equatorial Africa,' chap. xxiv.

the middle of the river breaks the rush of the water into two unequal parts, and the height of the cataract is only about fifteen feet. Mr. Du Chaillu says :—

The sight was wild, grand, and beautiful ; but it did not quite impress me with the awe that the rapids below inspired. We see here the river Ngouyai after flowing through the Apingi valley in the interior, and receiving the waters of the Ovigui and many other streams, bursting through the barrier of the hilly range which separates the interior of Africa from the coast land. The high ridges which have been broken through by the river rise on each side, covered with varied forest, and the shattered fragments encumber the bed of the stream for miles.

On his return to Olenda, Mr. Du Chaillu found trouble awaiting him. One of the chiefs of the Apingi tribe, whose villages lay in the line of his intended route, had died during his absence, and the cry arose that the stranger was the cause of his death through witchcraft. The result was that, after a grand palaver it was decided that Mr. Du Chaillu should pass through the Otando country, which lies to the south of the Apingi, and a message was sent to the Otando chief apprising him of the proposed visit, and requesting him to send a party of men to Olenda to assist in carrying the baggage. In the meantime, however, a terrible calamity occurred. The small-pox broke out with fearful violence among the people of Olenda, and they declared that the white man was an evil spirit, who had brought the plague, or *eviva*, as they called it, amongst them. Old king Quengueza stood gallantly by his friend, and asked them whether he, the king, who held the passage of the Rembo river, had come with his white man into the bush amongst these pigs of Ashira to be cursed ? He was urged by Mr. Du Chaillu to return to his own country, but he refused to leave him in the hour of difficulty and danger, saying, 'Chaillie I cannot go back. I came to see you through this country, and I should feel shame to leave you in your troubles. What would the Commi people say ? They would laugh at me, and say, Quengueza had no power to help Chaillie on his way. No, I shall not leave you !' At last, however, Mr. Du Chaillu persuaded him to go, and he was left alone with his little band of Commi negroes. They were soon attacked by the disease, which spread like a destroying angel through the villages, and at last king Olenda himself sickened and died. Famine followed in its train, and the



natives cursed the traveller as the author of their misfortunes.

'The once cheerful prairie of Ashira,' he says, 'had now become a gloomy valley of the dead ; each village was a charnel house—wherever I walked the most heartrending sights met my view. The poor victims of the loathsome disease in all its worst stages lay about in sheds and huts ; there were hideous sores filled with maggots, and swarms of carrion flies buzzed about the living but putrid carcases. The stench in the neighbourhood of the huts was insupportable. Some of the sick were raving and others, emaciated, with sunken eyes, victims of hunger as well as of disease. Many wretched creatures from other villages were abandoned to die in the bush.'

And yet the poor negroes behaved with a kindness which might have been looked for in vain amongst a more civilised people.

'And now,' says Mr. Du Chaillu, 'I was indeed alone, with no one to help me. I had to fetch water, to search for firewood, and to cook for myself, as well as for all my poor stricken followers. The villagers exerted themselves to procure food for me. Those who were now well enough crept towards the plantation to get plaintains for me ; and even the invalids, men and women, sent me offerings of food, saying "We do not want our stranger to be hungry."'

At last, after many months of heart-sickening delay, he was able to leave Ashira-land and march forward to Otando. He had to traverse a dense primæval forest, which bounds the eastern side of the prairie, and clothes the hills and valleys of the mountain-ridges, which extend in a north and south direction between the Ashira and Otando territories. One characteristic of this gloomy region is the great scarcity of animal life. 'Scarcely once,' he says, 'did we hear the voice of birds, and at night, as we lay round the fires of the bivouac, all was still as death in the black shades of the forest.' He was plundered by his black porters, and some of them ran away after robbing him of the contents of the boxes they carried. Amongst the missing articles was his photographic apparatus, which was never recovered. At times the party was reduced to extremity for food, and this gave an opportunity for the display of a touching trait of the African character. Greedy and rapacious and thieving as he is, the negro of the Equator seems to be naturally humane and kind. On one occasion, when they were starving, his porters succeeded in killing two monkeys. Instead of devouring the food themselves they brought it to Mr. Du Chaillu, and gave up the whole of it to him. And when he told them that they were entitled to it,

they insisted upon giving him the largest share, and then divided the residue amongst themselves. Here, by the way, we may mention that Mr. Du Chaillu speaks in raptures of roast monkey as an article of food. Of course it would be deemed excellent by a starving man; but his opinion was formed at a time when he had abundance to eat. He says that in the month of March, April, and May the flesh of monkeys is exquisite. 'I know of no game better or more refreshing; the joints must be either roasted or grilled to bring out the flavour of the meat to perfection.'

The principal village of Otando is called Máyolo, situated in an open tract of undulating grass-land, diversified by groups of trees and patches of forest. Here is a description of the scene :—

A wide stretch of undulating country lay open before us, the foreground of which was formed by prairie, the rest appearing as a continuous expanse of forest, with long wooded ridges in the distance one behind the other, the last and highest fading into blue mist in the far distance. From the margins of the forest the land gradually sloped, and signs of population were apparent in sheds and patches of plantation.

Mr. Du Chaillu stayed about two months at Máyolo, and his arrival was followed by the fatal small-pox. The chief's favourite wife and one of his nephews was taken ill, and, as usual, the sickness was attributed to witchcraft. Suspicion fell upon three of the chief's nephews, and they were compelled to go through the poison ordeal, which is an exact counterpart of the ordeal of the Middle Ages in Europe. A bowl of vegetable poison was prepared, out of which each of the victims had to drink in the presence of the assembled population, who were armed with knives and axes and spears to hack to pieces the bodies of any of the three who should sink under the ordeal. But they all escaped with their lives. They drank the poison, and yet were able to resist its effects 'The struggle was a severe one; the eyes of the young men became bloodshot, their limbs trembled convulsively, and every muscle in their bodies was visibly working under the potent irritation.' An analysis made of the roots of the plant shows, according to Mr. Du Chaillu, that it is 'a most violent poison.' But we can hardly understand how it so often fails, for the 'doctor' who had been consulted as to the bewitchment of the village afterwards himself drank an enormous

quantity of the poison, which passed off with no other effect than that of intoxicating him. Strychnine, or arsenic, or prussic acid, would have been a very different affair. Although Mr. Du Chaillu does not seem to have tasted this poison himself, he unconsciously swallowed homœopathic doses of another kind ; for, as the time approached for his departure from Máyolo, he each day received delicate attentions from the chief in the shape of eatables sent from his hut ; and he then found out that it was an African custom to mix in dishes given to a guest powder from the skull of a deceased ancestor, with a view to soften his heart and dispose him to be generous in the matter of parting gifts.

Little or nothing of interest occurred during his stay in Otando land. He amused the people with pictures in the 'Illustrated London News' and 'Punch.' "Punch," the traveller's friend, excited their wonder greatly. They all exclaimed, "What a fine cap he wears!" and asked me if I had any like it. They were quite disappointed when I told them I had not.' But a musical box set down on a stool in the village-street and playing by itself fairly frightened them, as they thought that a devil was inside the box ; and they were still more astonished when they received some shocks from a galvanic battery. But they seemed to have a dim notion of the cause, for they cried out 'Eninda !' which is the name of a species of electric fish found in the neighbouring streams. Their wonder, however, passed all bounds when a large magnet was brought out, and they saw knives and swords sticking to it. The idea of the traveller's wealth overpowered them, and the chief of the village declared that, if he was not a king, he must be next to a king in his own country. Some of the greatest pests in this part of Africa are the ants. There are ants that build hives or houses on the ground shaped like gigantic mushrooms, and scattered by tens of thousands over the Otando prairie. There are tree-ants, that make their nests between the ribs of the trunks of trees, and others of a much larger size, of a light yellow colour, which rear what may be called huts in the forest, upwards of four feet high. But the most troublesome seem to be the Bashikouay ants, whose bite, although not venomous, is extremely painful, and they travel in swarming myriads

along the ground. Mr. Du Chaillu says, 'There can be no doubt that if a man were firmly tied to a bed so that he could not escape, he would be entirely eaten up by these ants in a short space of time.' Once they got possession of his room and drove him out of it, until he was able to stop the advance of the invading host by kindling a fire outside the house on their line of march, and destroying them by thousands. He says :—

The armies of the Bashikouays seem for ever on the march, clearing the ground of every fragment of animal substance, dead or alive, which they can obtain or overpower ; and so furious are their onslaughts on the person of any one who steps near their armies that it is difficult or impossible to trace the columns to their nests, if, indeed, they have any.

Leaving Máyolo at the end of May he proceeded eastward towards Apono land. He had to cross a high hill, part of an elevated ridge, from the summit of which were seen in the distance the still higher ranges of mountains, amongst which dwell the Ishogo, the Ashango, and other tribes, and the sides were covered with the same eternal forest. He was now on wholly new ground, and was the first white man who had been seen in that part of Africa. The people when they caught sight of him and his party began to fly. The women snatched up their infants and cried out as they ran away, 'The Oguizi! (spirit) the Oguizi! He has come, and we shall die.' They associated his arrival with the scourge of small-pox which had already swept over that part of the country. He crossed the Upper Ngouyai river on a large flat-bottomed canoe which carried the party and baggage over in seven trips. The Ngouyai here is a fine stream, nearly as wide as the Thames at London Bridge, and from ten to fifteen feet deep. It flows from the S.S.W. He was now in the Apony country, part of which is occupied by isolated portions of the Ishogo tribe—and he found the people terrified at his approach, and most unwilling to allow him to proceed, as the report that he had brought the *eviva* or plague along with him had been spread far into the interior. He reached, however, a large village called Mokaba, where he met with a more friendly reception, and was only annoyed by the excessive curiosity of the inhabitants. He says,

The place swarms with people, and I have been haunted at my encampment

by numbers of sight-seers. The way they come upon me is sometimes quite startling ; they sidle up behind trees, or crawl up amongst the long grass until they are near enough, and then, from behind the tree-trunks or above the herbage, a number of soot-black faces suddenly bob out, staring at me with eyes and mouth wide open. The least thing I do elicits shouts of wonder ; but if I look directly at them, they take to their legs, and run as if for their lives.

The Aponos are distinguished by their sprightliness of character, and are clean and well-looking.

Their villages are larger, better arranged, and prettier than those of the Otando and Ashira Ngozai. Each house is built separate from its neighbours, and they attend to cleanliness in their domestic arrangements. Their country is an undulating plain, varied with open grassy places, covered with a pebbly soil and rich and extensive patches of woodland, well adapted for agriculture, in which they make their plantations.

Iron ore exists in considerable quantity in their prairies, and they melt it in little thick earthenware pots, using charcoal to temper the metal. But the tribes situated further to the east are the most expert workers in iron, and all the anvils which Mr. Du Chaillu saw in Apono land came from them. Like the Ashiras they are dexterous weavers of grass cloth, which forms their clothing. We have seen some of the Ashira mats, and in neatness of pattern and finish of workmanship, they are equal to anything of the kind manufactured in Europe. Mr. Du Chaillu calls them a ' merry people,' that is, they make a regular practice of getting drunk every day as long as they can procure palm wine. They hang calabashes to the trees, and climb them in the morning to drink deep draughts of their favourite beverage. It was the height of the drunken season when he was at Mokaba, and dancing, tam-tamming, and wild uproar, with as much quarrelling as goes on at an Irish fair, were kept up day and night.

From Mokaba the route lay a little to the north of east. The ground began to rise, and Mr. Du Chaillu entered on a richly-wooded hilly country in which were numerous plantations and villages of slaves belonging to the head men of Mokaba. He was now amongst the Ishogos, a fine tribe of strong well-made negroes, differing in many respects from those he had hitherto met. Both sexes ornament themselves by rubbing their bodies with red powder, but the most curious part of a woman's toilette is her *chignon*, the shapes and sizes of which might excite the envy of an European *belle*. It is much more magnificent, and hardly more ugly

than the bunches with which English ladies at the present day disfigure their heads. There are three pictures in Mr. Du Chaillu's book of the Ishogo fashions in this respect, and we are not sure that they may not be adopted before long amongst ourselves. One may be called the *chignon* horizontal, the other the *chignon* oblique, and the third the *chignon* vertical. Chronologically, it would appear that the African had the start of the Parisian *belle*, and that the invention is due to our black sisters.

We are so apt to associate with the idea of Africa sand and desert and jungle, that it is difficult to realize to the mind's eye the beauty of much of the scenery, and we are hardly prepared for such a description as that which Mr. Du Chaillu gives of the village of Mokenga, where he stayed for a short time during his journey through the country of the Ishogos:—

The village was surrounded by a dense grove of plantain-trees, many of which had to be supported by poles, on account of the weight of the enormous branches of plantains they bore. Little groves of lime-trees were scattered everywhere, and the limes, like so much golden fruit, looked beautiful amidst the dark foliage that surrounded them. Tall, towering palm-trees were scattered here and there. Above and behind this village was the dark green forest. . . . The spring from which the villagers draw their water is situated in a most charming spot. A rill of water, clear and cold, leaps from the lower part of a precipitous hill; with a fall of about nine feet into a crystal basin, whence a rivulet brawls down towards the lower land through luxuriant woodlands. The hill itself and the neighbourhood of the spring are clothed with forest, as, in fact, is the whole country, and the path leads under shade to the cool fountain. I used to go there in the morning whilst I was at the village, to take a *donche* bath. In such places the vegetation of the tropics always shows itself to the best advantage; favoured by the moisture, the glossy and elegant foliage of many strange trees and plants assumes its full development, whilst graceful creepers hang from the branches, and ferns and lilaceous plants grow luxuriantly about the moist margins of the spring.

A stream called the Odiganga, one of tributaries of the Ngouyai river, divides the Ishogo from the Ashango territory. When Mr. Du Chaillu crossed it, his Ishogo porters mutinied and laid down their loads, declaring that if he did not give them more beads they would return to their homes. He, however, told his Commi men to arm, and they stepped forward and levelled their guns at the heads of the Ishogos, who immediately gave in, holding out their hands and begging to be forgiven. It was a little attempt at extortion, the failure of which did not in the least disconcert them, for

‘in a short time they had again taken up their loads, and we marched off at a quick pace; the porters becoming quite cheerful, laughing and chattering as they trudged along.’ It is curious to notice the contempt which the negroes of the coast feel for the negroes of the interior. They were constantly tempted to insult them, and no arguments could induce them to believe that the Commi tribe were the same race as the Ashangos. ‘How is it possible,’ they said, ‘that Chaillie can think us to be of the same blood as these slaves?’

In most of the Ashango villages the people were very anxious to get gunpowder, and the porters wished to be paid partly in that article. They were asked why they wanted powder, as they had no guns, and were even afraid of handling one. They replied that a tribe called Ashangui, to the east, bought gunpowder and gave them iron for it, that there was a good deal of iron there, and that all their swords, spears, and arrow-heads were made of iron bought from that country. The iron sold by the traders on the West Coast does not reach so far inland as Ashango.

At Niembouai, one of the principal Ashango villages, there was a grand palaver whether the white man should be allowed to proceed, but the question was carried unanimously in the affirmative. While waiting there Mr. Du Chaillu took the opportunity of visiting the settlement of the Obongos, one of whose villages was in the neighbourhood. These are a curious race of dwarf negroes covered with tufts of hair on their bodies. They seem to be as distinct from the surrounding population as gipsies are amongst ourselves, and to be almost as low in the scale of humanity as the tree Dyaks of Borneo. They neither plant nor sow, but are expert trappers and fishermen, and feed on roots, berries, and nuts which they find in the forest, while they sell the game they catch to the settled inhabitants. The Ashangos despise them, but treat them with kindness, and often give their old worn grass-cloths to the Obongos. Their huts are filthily dirty, swarming with fleas, so that it was impossible to stay in them. They fled at the approach of the strangers, and in the course of several visits Mr. Du Chaillu could only succeed in finding ‘at home’ five or six women and a youth, whom he took the

trouble to measure, and found their average height to be about four feet eight inches :—

‘One of the women,’ he says, ‘in the course of a short time, lost all her shyness, and began to ridicule the men for having run from us. She said they were as timid as the nchende (squirrel), who cried “qué qué,” and in speaking she twisted her little body into odd contortions, with such droll effect that we all laughed. When I brought out my tape to measure her, her fears returned ; thinking perhaps that it was a kind of snake I was uncoiling out of its case, she trembled all over. I told her I was not going to kill her, but it required another present to quiet her again. I accomplished my task at last.’

After leaving Niembouai, the Ashango porters repeated the experiment which had been formerly tried by the Ishogos. They laid down their loads and demanded more pay. Again the Commi negroes took up their guns and pointed them at the heads of the offenders, who instantly yielded, and said laughing, ‘Let us stop awhile and have a smoke. Do you think we would leave you in the woods? People may be left in a village, but not in the forest.’ The Ashangos seem to be more civilised than the other tribes nearer the coast. One proof of this is the extent of their dress, which is made of the palm-leaves of the country. Even the children do not go naked, and the robes of the chiefs are of unusually large size, worn gracefully on their bodies. All of the inhabitants, both male and female, shave off their eyebrows and pluck out their eyelashes, and, like the Ishogos, smear themselves with a red powder. They are not drunkards like the Aponos, though palm-trees are abundant in the country, and they drink the palm wine, but in moderation. Mr. Du Chaillu was now on his way to the territory of the Njavi tribe, who live to the east of Ashango land, and as he approached the village of Mobana through the forest he was again robbed by his porters, three of whom ran away with their loads. The boxes, however, were recovered, with the articles they contained, *minus* the contents of some medicine bottles, which, amongst other things, held arsenic ; and there was afterwards a report that some of the natives had died mysteriously after touching the white man’s goods. Next day two more boxes were stolen in Mobana, and the chief was summoned, and he and his people were accused of the theft. Many were the palavers, and in vain were the detectives set to work. A novel kind of ‘distress’ was proposed by the natives to recover the goods,



for they said that if they only knew the village to which the things had been taken, they would go and seize some of their women !

Mobana is situated on the top of a high hill, and the land slopes down gradually towards the east. Here Mr. Du Chaillu heard again of a large river flowing further to the eastward, which he supposes to be the Congo ; but, as we shall see, he was unable to reach it, for an unexpected disaster awaited him, which brought his expedition to an untimely end. The same kind of country through which he had already travelled seemed to extend onwards to the east : hilly ranges clothed with forest and interspersed with open prairies, in which lie the villages of the negroes. At last, on July 21, he reached the village of Mouaou Kombo, which was fated to be the limit of his journey. The natives became more and more unwilling to allow him to proceed, and a deputation from some villages further ahead arrived at Mouaou to threaten the inhabitants with war if they came with him through their country. Of course there was a palaver, and in the meantime Mr. Du Chaillu was obliged to stay at Mouaou. But he did not like to remain in the village, and formed an encampment at some little distance in the woods on the borders of one of the beautiful clear streams which he says are so frequent in this mountainous region.

The place was a very pleasant one, under the shade of magnificent trees, whose closely-interwoven arms would protect us from the night mist which dissolves in a soaking drizzle almost every night in this humid country.

But this distrust of the hospitality of the villagers displeased them, and they came and entreated him to come back. He at last complied with the request, and entered Mouaou with all his baggage in a sort of triumphal procession. The chief came out in state with his countenance painted and his royal bell ringing : and his head-wife told them that she was cooking a large pot of vegetables to refresh the travellers.

‘ Alas ! ’ says Mr. Du Chaillu, ‘ the joy was soon turned into terror ! Four men from the hostile village, arrayed in warrior’s attire, and brandishing plaintain leaves over their heads, came in. They said they had held their palaver this morning, and had decided not to let the Oguizi pass ; there would be war if the Mouaou people attempted to bring me.

‘ Kombo, who was seated by my side, told me to hide myself in my hut, so as not to give the strangers the pleasure of seeing me ; he then ordered my men

to make a demonstration with their guns to intimidate these vapouring warriors. I laughed as I saw the men taking to their heels as soon as Igala advanced towards them, firing his gun in the air. But my men got excited, and hurrying forward into the open space to fire their guns in the air, one of the weapons loaded with ball went off before the muzzle was elevated. I did not see the act, but immediately after the report of the guns, I was startled to see the Mouaou villagers, with affrighted looks and shouts of alarm, running in all directions. The king and his kondè, who were both near me, fled along with the rest.'

A negro had been killed not far from the hut, and at first it was thought that he was the only victim. This accident might have been got over, for the natives seemed willing to take payment in beads and cloth as the price of the life that had been lost. The war drums had ceased beating, and they were going to hold a palaver, when suddenly a woman came rushing out of a hut, wailing and tearing her hair, to announce that the head-wife of the chief had been killed by the bullet, which, after passing through the body of the negro, had pierced the thin wall of her hut. There was now a general shout of 'War!' and Mr. Du Chaillu and his little party were compelled to retreat.

Away we went; Igala took the best of our remaining dogs, and led the van, I bringing up the rear. It was not an instant too soon. Before we were well on the forest-path leading from the village, a number of arrows were discharged at us; Igala was hit in the leg, and one of the missiles struck me on the hand, cutting through one of my fingers to the bone. Macondi and Rebouka, in leaving the village, narrowly escaped being transfixed with spears, and only succeeded in repelling their assailants by pointing their guns at them. If I had not stopped them from firing they would have shot a number of them. Wild shouts and the tramp of scores of infuriated savages close behind us put us on our mettle. I shouted to my men not to fire for we were in the wrong, and I told the villagers we should not shoot them if they did not pursue us to the forest, but that if they followed us we should certainly kill them. My Commi boys behaved exceedingly well; they were cool and steady, and keeping a firm line, we marched away through the street of the village.

After running four or five miles pursued by the infuriated blacks, Mr. Du Chaillu ordered his men to make a stand, and, firing his rifle, shot two of the leading negroes. This made them keep at a more respectful distance, but they still followed the retreating party, and Mr. Du Chaillu was again struck by a barbed arrow in his side. He says:—

The unfeigned sorrow and devotion of my men at this juncture were most gratifying to me. I was getting weak from loss of blood, and a burning thirst was tormenting me. They asked what was to become of them if I should die? I told them to keep together, come what might; and if they escaped, to deliver all my journals and papers to the white men.

Twice again the Commi negroes fired upon their pursuers, and each time with effect. This effectually frightened them, and although they followed at a distance for some time through the forest, they did not venture to show themselves, and at last were heard no longer. One of Mr. Du Chaillu's men was badly wounded, and he himself suffered acute pain from the poisoned arrows which had struck him. But the poison is not very virulent, and if the wound is an external one, it is seldom fatal.

We need not give details of the rest of Mr. Du Chaillu's retreat. It was over the same ground which he had formerly traversed, and he met with no opposition from the natives. On the contrary, they welcomed him in the most friendly manner, and often pressed him to stay with them. The Ishogoes especially, whom he calls the kindest-hearted and gentlest negroes he ever met with, received the fugitives with enthusiasm, and as he passed through their villages followed him with shouts, 'Go on well, go on well ; nothing bad shall happen to you.' Perhaps the boasting of his Commi body-guard had something to do with this, by inspiring admiration of their valour ; for as they increased the distance between themselves and the Ashangos, they magnified their own prowess, and told wonderful stories of the numbers of the enemy they had slain. In a short time the three or four who had fallen by their guns were multiplied to a hundred and fifty, and, like Falstaff about his men in buckram, each told a tale of the numbers he had killed with his own hand. We need not wonder at the awe which such deeds of prowess inspired, nor that the audience clapped their hands, and cried out, 'You are men ! You are men !' As he passed along he saw fearful evidences of the violence of the small-pox which had raged in the district. In many places the ground was strewed with human skulls and bones, and some villages had been entirely deserted. Goumbi, on the Rembo, one of the chief towns of king Quengueza, had become a ruin, and one clan of the Commi tribe was almost wholly destroyed. The old man himself was broken-hearted, but he refused to listen to his people, who wished human victims to be sacrificed as the authors of the witchcraft which had caused the plague. 'No,' he said, 'it is no witchcraft, but a wind sent by God.

Enough people have died, and we must kill no more.' He entreated Mr. Du Chaillu to return again to Africa. 'Come again,' he exclaimed, 'and go no more into the bush; and when you come bring me a big bell, a sword with a silver handle that will not rust, and two chests, one of brass, and another of ebony, for I want to see how you work the wood that we send to you.'

At last, on September 21, 1865, Mr. Du Chaillu reached the mouth of the Fernand Vaz river, and found a vessel there loading for London. He had lost everything but his journals, and had neither money nor property with him, but he was taken on board as a passenger, and soon after arrived safely in England. Thus ended this second most adventurous journey, of which some may think that the results have been meagre, if we compare them with the danger and the cost. It is the narrative of brave adventure, dogged by misfortune, and ending in disappointment. But this was not Mr. Du Chaillu's fault.

Though his advance from the coast has not exceeded 240 miles in a direct line, he has made many important additions to natural history, and thrown a new and interesting light on the nature of the country, and the manners and conditions of its inhabitants. The region is almost impenetrable from the want of harbours on the surf-beaten coast, the deadliness of the climate, the rains which last for ten months of the year, the intricacy of the jungle which covers nearly the entire surface, and the jealous suspicions of the natives. The narrative affords abundant proof that, if any one could overcome these obstacles it was Mr. Du Chaillu—the man who, in the first instance, had been the victim of a calumny to make him out an impostor, to deny him all merit as a discoverer, and to suppress his name from the very specimens he had sent home. This second journey places him above the reach of cavil; and if he has failed, he has shown all future travellers the qualities needed for success.

Almost acclimatised by residence on the coast; endued with rare energy, courage, and perseverance; personally popular with the natives for that kindly disposition which we see in the management of his guides, speaking their dialects with fluency, and showing masterly tact in his 'palavers' with

them, thoroughly acquainted with their habits, he seems to possess all the qualifications of an African traveller. But he was able to advance only a few hundred miles inland, and then barely escaped the fate which has befallen so many brave and distinguished men, from Mungo Park down to—we can scarcely bring ourselves to abandon hope, as, with deepest sorrow, we add the last most honoured name—Livingstone. It may be well worth while seriously to consider whether it is wise or right to expose valuable lives to such risks in such expeditions. To solve the great problem of the sources of the Nile, to dispel the darkness which has shrouded the cradle of the mysterious river for so many ages, and to set at rest a question which from the time of Herodotus had vexed geographers, historians, and philosophers, is a feat to immortalise the name of the discoverer. We can quite understand, therefore, why travellers persevered in the attempt, and will persevere all the more for the success which crowned the enterprise of Speke, and Grant, and Baker, when they gazed upon the waters of the great African lakes which form the head reservoirs, if we may not strictly call them the sources, of the Nile. But we more than doubt whether anything is to be gained by an attempt to cross the continent of Africa in the region of the equator. Indignantly protesting at that want of sympathy with the worth of science and the dignity of manly adventure, which sneers at the desire to enlarge the bounds of geographical knowledge as mere curiosity, we must still recognise that the chief objects of such an enterprise should be trade and civilisation. But the isolated journeys of a few travellers carrying their lives in their hands—after the first indispensable work of laying open the regions which it requires unselfish devotion such as theirs to think of penetrating—can do little or nothing to effect these objects. They might be better advanced, in the second stage, by settlements and factories on the coast, or on the banks of navigable rivers as far inland as the climate or other natural obstacles will allow. The path of the white man through the tribes of the interior is like the path of a ship through the waters. The waves close on the track, and all trace of it is lost, till the march of civilisation, directed in the same track by more effective if

less unselfish motives, takes the chart of the almost forgotten traveller for its guide.

If we do not actually know, we can tolerably well guess, thanks to Mr. Du Chaillu, what is the nature of the country, and what is the character of its inhabitants. Forest and prairie alternate; and elevated ridges, which sometimes rise to the dignity of mountains, with jungle covering their sides, run in parallel lines from north to south. The kings of the forest seem to be the gorilla and the chimpanzee, for there are only a few carnivorous animals found there, and the elephant, the rhinoceros, and the lion are unknown. Mr. Du Chaillu saw no zebras, giraffes, elands, or antelopes, and indeed, the absence of animal life of any kind was remarkable. He says that miles after miles were travelled over without hearing the sound of a bird, the chatter of a monkey, or the footstep of a gazelle. Reptiles, of course, abound, and most of the snakes are poisonous. As to the people, he was struck with the scantiness of their numbers, and the varieties of languages and dialects spoken by the different tribes. The patriarchal form of government everywhere prevails, each village being ruled by a chief or by elders. The power of a chief is not despotic, but subject, in cases of life and death at all events, to a council of elders. Polygamy and slavery exist, but the slaves always belong to a different tribe from that of their owner.

It is, however, of little interest to know what are the laws and customs of half-naked savages, who since the first peopling of the wastes of Africa, have been unable to raise themselves higher in the scale of intelligence than we now find them. Indeed, it is most probable that they have degraded from the old stock, whatever that stock may originally have been. It is sad to think of generations that have passed, and of those that will pass away, of men 'born for immortality,' whose religion is the lowest form of superstition, and who seem destined to continue as long as they exist in a state of primæval barbarism. We confess that we have no faith in the opinion that they can civilise themselves or that civilisation can be imported amongst them. The individual negro may now and then show a remarkable aptitude for this, and hereby he proves the folly of the theory which would make him the

congener of the ape ; and negroes who dwell amidst a superior race, like those in the United States and in the West Indies, may be capable of improvement ; but so long as they inhabit Africa, with its climate, their habits, and their traditions, we believe that neither the efforts of missionaries nor the enterprise of travellers, nor the energy of traders, will be able to raise them materially in the scale of humanity. We agree with Mr. Du Chaillu that 'though a people may be taught the arts and sciences known by more gifted nations, unless they have the power of progression in themselves, they must inevitably relapse in the course of time into their former state.'

He says that the population in the region of the equator is steadily decreasing. The negroes themselves acknowledge it, and he attributes it to the slave trade, polygamy, barrenness of women, death among children, plagues, and witchcraft, 'the latter taking away more lives than any slave trade ever did.' But all these causes have been in operation for ages. The slave trade, indeed, was infinitely more active formerly than now, and yet it is only lately that the diminution has become so apparent. In the lifetime of old men clans have entirely disappeared, and of others only a few individuals remain. Nor is it only in Central Africa that this occurs. We are told that in every other part of the continent travellers who, after the lapse of a few years, have returned a second time to the same country, have noticed a decrease of population.

We are unable to account for this ; but, whatever be the cause, we cannot affect to be sorry for the result. We feel too profoundly for the degradation of the negro, and the miseries he endures, and we have too little faith in the probability of his amelioration, to desire the continuance of his race. It may be that, like that of the Red Indian in America, or the Maori in New Zealand, or the Black Man in Australia, it is destined to disappear ; but in those cases it dies away before the march of advancing civilisation. The hunting-grounds of the wilderness are covered with cattle and with corn, and the wigwam of the savage gives place to opulent towns. But the climate of Africa seems to forbid the possibility of this, and if the negro were to vanish from the earth, we know not who from amongst the family of man would be likely or able

to occupy his seat. Nor need we now speculate on the future, for that day is far distant. In the meantime our duty is clear ; we must treat him with kindness, but also with firmness, when we come in contact with him ; we must deal with him fairly, and do our best to educate and elevate him as far as his nature will permit him to rise, leaving the issue of the question of his destiny in the hands of Providence.



EUGÉNIE DE GUÉRIN.<sup>1</sup>

‘Edinburgh Review,’ 1864.

IT is a remarkable proof of the impression made in France by this book that the prize given by the French Academy was awarded to it, and that it has gone through ten editions in less than two years. Perhaps it owes these distinctions, in part, to the contrast it affords to the prevailing spirit of the French nation and the present age; but its own merits are undeniable, and we have never read a more touching record of devoted piety, sisterly affection, and love ‘strong as death.’ Eugénie de Guérin is an Antigone of France sublimed and ennobled by the Christian faith. Her Journal is the outpouring of one of the purest and most saintly minds that ever existed upon earth. The style is exquisitely beautiful, and it lingers in the memory like the dying tones of an Æolian harp, full of ineffable sweetness. Amidst the impurity which has so long flooded French literature, it is delightful to come upon the streams of thought that flowed in limpid clearness from the fountain of her mind, and to find in a young French girl a combination of piety and genius with so much felicity and force of expression, that her countrymen have not scrupled to compare her style to that of Pascal himself.

Religion was with her not a thing to be resorted to at certain times and on particular occasions, but it was part and parcel of her existence. She breathed its atmosphere, and it was the essential element of her life. She was one of those rare beings who seem to belong less to earth than to heaven, whose temperament, so to speak, is *theopathic*, and whose faith enables them to regard this world as a world of shadows and

<sup>1</sup>*Eugénie de Guérin: Journal et Lettres publiés avec l'assentiment de sa Famille.* Par G. S. TREBUTIEN. Ouvrage couronné par l'Académie Française. Paris: 1863.

the unseen life as the only reality. To many even of those who think deeply on religious subjects this is a state of mind which is unattainable, perhaps hardly intelligible. The piety seems too seraphic for the wants of daily life ; the armour too ethereal for the combat and struggle which are the ordinary lot of man ; and they look upon it as a beautiful flower which may flourish in a cloistered solitude, but which would droop and wither in the wilderness of the world. This temperament, however, beyond all doubt, does exist, and such a journal as that of Eugénie de Guérin will find a responsive echo in many hearts, both Protestant and Catholic ; for there is in it a depth of piety which transcends mere difference of creed, and swallows up, as it were, that difference in the intensity of Christian faith and a large-hearted love of God.

No doubt there are also many to whom this ecstatic view of religion is sickly and sentimental, and who are disposed to attribute the highly-wrought expressions of pious enthusiasm to weak health, habitual solitude, and an excitable imagination. The character of Eugénie de Guérin belonged rather to the cloister than the world : and it is remarkable that, in an age like the present these journals and letters of a recluse, breathing no passion but that of the tenderest affection to God and to her brother, should have been read with extreme avidity. They owe their success to their entire moral sincerity and their great intellectual refinement. There is not a trace of cant or affectation in these pages, which, indeed, were never intended to be seen by any human eye but that of her brother Maurice ; and their purity of intention is equalled by a purity of style and felicity of diction so remarkable, that this unknown provincial maiden is raised by the French Academy itself to the rank of one of the best writers of the language.

Before we notice the work in detail, we will say a few words of the De Guérin family, and of the brother who may, without exaggeration, be said to have absorbed the whole of Eugénie's existence. This is necessary to justify, and even render intelligible, the devotion with which she clung to him while living, and cherished his memory when dead. Maurice and Eugénie de Guérin were born at the old family château of Le Cayla, in Languedoc, near the town or village of Ardillac, and not very far from Toulouse. They were of ancient

and, indeed, noble lineage, and their ancestors had fought in the Crusades. A Guérin, or Guarini, was, at the beginning of the ninth century, Count of Auvergne, and members of the family became lords of the domains of Ols in Quercy, Rhinhodes in Rouergue, Apchier in Gévaudan, and Laval, Saigne, and Cayla in Languedoc. It could boast of a cardinal, who was also a troubadour at the court of Adelaide of Toulouse; and of a chancellor of France, the Bishop of Senlis, in the reign of Queen Blanche, who animated by his example the courage of the troops at the battle of Bovines. By various intermarriages, also, it mingled its blood with some of the noblest families in France—the Séguiers, the Dulacs, the Bernis, and the Rochefoucaulds. The château itself is situated in a solitary spot overlooking a valley shaded by woods, and with broad cornfields to the north. Eugénie says in her Journal that the surrounding country is 'a great empty desert, or peopled almost as the earth was before man appeared on it, where one passes whole days without seeing anything but sheep, or hearing anything but birds.' A little rivulet gurgles close under a terrace in front of the windows. The house was furnished in the simplest style, for the family was not affluent. She thus describes it:—

Our rooms are all white, without mirrors or a trace of luxury; the dining-room has a sideboard and chairs, with two windows that look out upon the wood at the north; the other saloon at the side has a sofa, in the centre a round table, some straw-bottomed chairs, an old arm-chair worked in tapestry, where Maurice used to sit (a sacred piece of furniture), two glass doors on the terrace, the terrace overlooking a green valley where a rivulet flows; and in the saloon a beautiful Madonna with her infant Jesus, a gift by the Queen—such is our abode.

Monsieur and Madame de Guérin had four children, of whom Eugénie was the second. She was born in 1805, five years before her youngest brother Maurice, to whom she may be said to have devoted her whole existence. The difference in their ages made her feel towards him, as she expressed it, more like a mother than a sister. The other children were, a sister, Marie, or Mimi, as she was called, and a brother, the eldest of the family, named Erembert. They lost their mother at a comparatively early age, when Eugénie was thirteen years old.

This was Eugénie's first sorrow, and it made a profound impression upon her mind. She was religious from her cradle,

and the loss of her mother deepened her convictions and sanctified her faith. She says, in her Journal, Dec. 31, 1839, with reference to it :—

From being a merry and laughing girl I became pensive and reserved ; my life suddenly changed : there was a flower drooping and broken in a coffin. From that epoch dates a development in my faith, a religious impulse, a love of God, which carried me away from all earthly things, and which left me that which sustains me now, a hope in God which early consoled me.

Both she and Maurice were gifted with a rare intelligence. Both were born poets in the true sense of the word. Both clothed their thoughts spontaneously in verse which gushed from them like a fountain, and the prose of both was poetry. Wandering in the solitary woods hand in hand, they passed their childhood together, 'like twin cherries on one stalk,' clinging to each other with inexpressible fondness ; and each might say to the other :—

For sure our souls were near allied, and thine  
Cast in the same poetic mould as mine.

Eugénie showered upon the little Maurice the treasures of her love, and he returned it with all the warmth of his young heart. One of his teachers said to his father, 'You have there a transcendent child.' From his earliest infancy, his delight—or, rather, his passion—was the contemplation of Nature. His sister says, in a few brief memoranda she drew up for a notice that was to be prefixed to an edition of his works after his death,—

Maurice was, as a child, imaginative and a dreamer. He passed long periods of time in gazing on the horizon, under the shadow of the trees. He had a peculiar affection for an almond tree, beneath which he used to take refuge when he felt the slightest emotion. I have seen him stand there whole hours.

He used, as a boy, to declaim in the open air, and made a rustic pulpit of a grotto in the woods, where he preached to his sisters—his only audience. They called it the pulpit of Chrysostom. He quitted home to attend a school at Toulouse, and at the age of thirteen he went to the Stanislaus College, in Paris, where he remained five years and brilliantly distinguished himself. During all that period he never visited his home, for Cayla was far distant and travelling was expensive. When he came back, his sister remarked in him an increase of melancholy, which was the habitual feature of his

character. In a letter written in 1828, apparently in a fit of deep dejection, to the Abbé Briquet, one of the professors at the college, he attributes this to early sorrows. He says :—

You know my birth : it is honorable—that is all ; for poverty and misfortune are hereditary in my family, and the majority of my relatives have died in trouble. I tell you this, because I believe that it may have had an influence upon my character. . . . . The first years of my life were extremely sad. At the age of six I had no longer a mother. An eyewitness of the prolonged grief of my father, and often surrounded by scenes of mourning, I perhaps then contracted the habit of sadness. Living a life of retirement in the country with my family, my childhood was solitary. I never knew those games nor that noisy joy which accompany early years.

He goes on to say that he had the image of death constantly before his eyes, and his dreams were of the tomb. Clearly his mind was then in a very morbid state. He told his sister that the sentiment in which they resembled each other was melancholy—‘an affection of the soul which had been often turned into ridicule owing to its abuse, but which, when natural, ennobled the heart and became even sublime.’

At the end of 1832, at his own earnest request, Maurice was allowed to join the little society at La Chênaie, in Brittany, half Benedictine, half secular, of which the Abbé de la Mennais—that lost star in the firmament of the Roman Catholic Church—was the head. But he had not then thrown off his allegiance to the Pope, nor startled the world with the publication of his ‘Paroles d'un Croyant.’ Lacordaire and Montalembert were still amongst his disciples. The community consisted of the Abbé de La Mennais, Abbé Gerbet, and six or seven young men who pursued their studies chiefly with a view to a monastic life. La Chênaie was a kind of Port Royal of the nineteenth century. It stood solitary amongst boundless woods, ‘an oasis,’ as Maurice de Guérin called it, ‘amidst the steppes of Brittany.’ In front of the house was a large garden, divided into two by a terrace planted with limes, and at the extremity was a chapel in which they offered up their daily devotions. In the following passage in a letter to his sister Maurice describes the famous Abbé, the Pythagoras of the establishment :—

The great man is little, frail, pale, with grey eyes, oblong head, a nose large and long, his forehead deeply furrowed with wrinkles which descend between the eyebrows to the commencement of the nose : dressed in a complete suit of coarse

grey cloth from head to foot; running about his room in a way that would tire my young limbs, and when we go out for a walk marching always at the head of us, covered with a straw hat as old and worn as that of Charles de Bayne.

Maurice stayed at La Chênaie until the society was broken up, in September 1833, by the pressure of ecclesiastical authority. While there, he nourished his native melancholy with the tender reminiscences of an early and lost love. We know no more of the circumstances than that the name of the object of his attachment was Louise. He wrote poetry in secret, and confided the outpourings of his muse to one intimate friend, M. de Marzan, with whom he used to roam in the solitude of the woods. Of course he kept up a correspondence with Eugénie, and some of the letters have been preserved and published, as also a journal, now well known as the '*Cahier Vert*,' in which he noted down his impressions and feelings just as they occurred. The last entry in it is the following :—

I have travelled. I know not what movement of my destiny has carried me along the banks of a river to the sea. I have seen on the banks of that river plains where nature is puissant and gay—royal and ancient dwellings marked with memories which keep their place in the sad legends of humanity—numerous cities, and the ocean rumbling in the far distance. . . . . The course of travel is delightful. Oh ! who will set me afloat on the Nile ?

Wordsworth himself was not a more ardent admirer nor a closer observer of natural scenery than Maurice de Guérin. His love of Nature was a worship and a passion, and her ever-changing forms were to him little less than beings endowed with life.

'Still snow,' he writes, in the month of March, 'torrents of rain, gusts of wind, cold. Poor Brittany ! you have need of a little verdure to cheer your sombre physiognomy. Oh ! cast off quick your winter cloak, and take your mantle of spring—a tissue of leaves and flowers. When shall I see the folds of your robes floating in the air, the sport of the winds ?'

Again :—

I have paid a visit to the primroses. Each bore its little burden of snow, and bent its head beneath the weight. Those pretty flowers, so richly coloured, produced a charming effect under their white head-dresses. I have seen whole tufts of them crowned with a single block of snow. All those smiling flowers thus veiled and leaning their heads towards each other were like a group of young girls surprised by a wave and sheltering themselves under a white sheet.

Describing a mist which, as it curled upwards, unveiled the mountain tops :—

One would have believed he saw old darkness fleeing away, and God like

a statuary removing with his hand the drapery which covered his work,—and the earth exposed, in all the purity of its primitive forms, to the rays of the first sun.

Again, in a different strain :—

The winter is passing away with a smile. . . . . It is another step of Time that is gained. Oh ! why can it not, like the coursers of the Immortals, reach at a bound the limits of its duration.

But he did not pass all his time in poetic reveries. He was a diligent student, and made himself master of Greek, Latin, English, and German. In a letter to his sister, written a little later, he mentions his partiality for Byron and Scott—*le bon homme Walter Scott*—and says he was then reading ‘Faust,’ which he describes as a work that ‘might have been written by an angel under the dictation of the Devil.’

When the Abbé de La Mennais was compelled to dismiss his little band of students, they migrated to the monastic establishment of Ploërmel, which was under the direction of a brother of their former chief, himself also an Abbé. Maurice quitted La Chênaie with profound regret ; but he said, ‘Although my grief is very bitter, I will not hang my harp on the willows by the water-courses, because the Christian, unlike the Israelite, ought to sing the Lord’s song, and the song of the servant of the Lord, in a strange land.’ At Ploërmel he was not happy ; he felt oppressed by the monotony of his daily life, and revolted against the narrow strictness of the discipline. He pined for a more active sphere, and in one of his letters thus expressed himself : ‘I would rather run the risks of an adventurous life than allow myself to be thus strangled by rule.’ He was then a warm champion of the cause of his former teacher ; and speaking of his quarrel with the Pope, said, ‘Even if the Pope condemned him, is there not in Heaven a court of appeal?’ At this period of his life he suffered intense agony from a strange and miserable feeling of utter incapacity. He humbled himself to the dust under an exaggerated idea of the intellect of others, and a sense of his own inferiority. His depreciation of his own powers was absurdly wrong ; but the distress he endured in consequence was indescribable. This morbid feeling increased upon him as the period drew near when, according to his own resolve, he was about to exchange the monastic solitudes of Brittany

for the bustle of the metropolis and the stern realities of active life—La Chênaie and Ploërmel for Paris. His delicate organisation, where disease was already at work, made him shrink from the rough tumults of the world ; and he thought himself wholly unfit to contend for ‘the immortal garland,’ which, to use the words of Milton, ‘is to be won not without dust and heat.’ But a sense of duty nerved him for the struggle. He said, ‘I toil simply and solely for my father and my friends : all my forces are in them ; and it is not I who work, but they who work in me.’

Before, however, he started for Paris he paid a visit to his friend M. Hyppolyte de la Morvonnais, who, with his young wife and an only daughter, had a charming residence in Brittany called Le Val, on the banks of the river Arguenon, not far from St. Malo, on the coast. From the Val d’Arguenon he went to Paris, where he hired a chamber at twenty francs a month, and struggled manfully to maintain himself by writing essays for the newspapers, and afterwards by giving instruction as a tutor to young men attending or preparing for the University. He was at first astonished to find his articles accepted. With unaffected humility he speaks of them in language which, now that his genius is recognised, can hardly be read without a smile :—

‘I write boldly,’ he says, ‘a quantity of articles, which are received, I know not by what miracle, in a little newspaper. I know not, in truth, which I ought most to wonder at, the excess of goodness in men who accept such poor essays, or my incredible assurance in launching such stupidities into the world.’

But in the meantime his intercourse with the Abbé de La Mennais had borne its natural fruit, and he had become unsettled in his faith, even if he was not quite an unbeliever. This caused great distress to his sister Eugénie, who perhaps exaggerated the extent of the mischief. At all events she feared that her brother had ceased to pray, and her Journal at this period contains several allusions to the subject. On August 4, 1835, she writes :—

O ! my friend, if you knew how the soul in affliction finds sweet consolation in God ! what force it derives from the Divine power.

And on January 26, 1838, when he had returned to Paris, after paying a short visit to home :—

Maurice, my dear Maurice, oh ! what need I have of you and God ! There-

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fore, in taking leave of you, I went to church, where one can pray and weep at ease. What do you do, who do not pray, when you are sad, when you have your heart broken? For myself, I feel that I have need of superhuman consolation—that I must have God for my friend, when that which I love causes me to suffer.

This was until the latter end of her brother's life the one drop of bitterness in her cup of joy as regarded him. No pride in his intellectual powers, no conviction, comforting as it was, that in the midst of temptation his morals were pure, could make her forget that he had ceased to be a follower of the Cross. Her passionate prayer to Heaven was that he might return like a wandering sheep to the fold of his Saviour, and be a partaker in the glorious hope of a blessed immortality, which was the support and consolation of her life. And her prayers, as we shall see in the sequel, were not in vain.

During his residence in Paris Maurice met with Caroline de Gervais, a young lady who was born at Calcutta, and had only lately come to France, having lost her father. An attachment sprang up between them, and she became his affianced bride. Eugénie calls her 'a charming Eve come from the Orient for a paradise of a few days.' But in the meantime seeds of consumption had already been sown in his delicate frame, and the state of his health caused serious alarm to his affectionate family and above all to his devoted sister. Her letters addressed to him have by some mischance been lost; but she was in the habit of keeping a private Journal for his eye alone. In this she noted down her thoughts as they occurred, and the little occurrences of her daily life, in the pious hope that as he from time to time perused it he might, though absent, be as it were present amongst them, and might feel himself surrounded in the midst of the dangers of Paris and the world by the sweet and holy influences of home. She did this at his especial request, and no more welcome packet ever reached him than that which contained his sister's diary. It is to this Journal that we purpose to introduce our readers. She, however, little thought that it would meet the public eye. In one of the entries, dated August 24, 1835, she says, '*This is not for the public, it belongs to my inmost feelings, to my soul: IT IS FOR ONE.*' It was written on separate paper-books or *cahiers*, as she calls them, for the convenience of

transmission to her brother by the post, and some of them are unfortunately lost. Of those which remain the first is dated Cayla, November 15, 1834.

Before his marriage took place Maurice, after five years' absence, returned home, and spent six happy months at Cayla. Speaking of this period his sister says :—

Those six months with us, when he was ill, and so much beloved, had again strongly attached him to this place. Five years without seeing us had made him perhaps a little lose sight of our tenderness ; but having found it again he had returned it with all his own—he had so completely renewed all his relations with the family that when he left us death alone could have broken them. He had so assured me. His errors were past—his illusions of heart had vanished ; from a feeling of need, and by his primitive tastes, he embraced sentiments of a good kind. I knew all. I followed his steps ; from the fiery circle of the passions (very brief for him) I have seen him pass into that of the Christian life. Beautiful soul ! soul of Maurice ! God had withdrawn it from the world to shelter it in Heaven.

It was so arranged that Eugénie should accompany the rest of the family to Paris, and be present at the marriage. This was a great event in her life, for she had never before undertaken so long a journey. A visit to the neighbouring towns of Gaillac or Alby had been the utmost limit of her wanderings. But although her diffidence in herself made her fancy that she was unfitted for society, we are assured that in the capital of France her conversation made a deep impression upon those who met her ; and owing to her tact and the native grace and dignity of her manner, she was in reality as much at home in the glittering *salons* of Paris as in the quiet and rustic retirement of Le Cayla. She was, however, little known, and it was not till long after her death that her name reached the ears of those who would most cordially have welcomed and received her.

Maurice returned to Le Cayla on July 8, 1839 ; but his disease had already made great progress, and he was within sight of the bourne of rest which he had so ardently longed for. Ten days afterwards his sister notes in her Journal the end of his melancholy existence. He was buried in the cemetery at Ardillac, and it is a curious trait of the state of feeling in France at this time, even before the Revolution of 1848 had inaugurated the reign of Liberty and Equality, that when the De Guérin family placed a stone crucifix in the churchyard to mark the resting-place of their beloved Maurice,

there was a strong opposition on the part of the peasantry, who thought it a violation of the equality of death. It even became necessary to guard the tomb during the night to prevent its spoliation. Eugénie says in her Journal :—

Poor sovereign people ! This is what we must suffer from it ; this is the fruit of their knowledge. In times past all would have crossed themselves before that crucifix which to-day they talk of throwing down in the enlightened times in which we live. Unhappy times, when respect for holy things is lost, when the lowest pride themselves in revolting against the mournful elevation of a tomb !

As Eugénie had devoted the chief part of her existence to her brother while he lived, so she now consecrated the remainder of her days almost exclusively to his memory. It cannot be denied that there was something morbid in this. She hugged her sorrow to her heart, and, like Rachel weeping for her children, refused to be comforted. But she mourned not as those who have no hope. Across the dark cloud of her sorrow there darted a ray of light, and that was the ineffable comfort she found in the conviction that Maurice had died a sincere Christian. And she knew that his life had been in a singular degree innocent and pure, so that she might say of him what was said by Cowley on the death of his friend Hervey :—

He, like the stars, to which he now is gone,  
That shine with beams like flame,  
Yet burn not with the same,  
Had all the light of youth, of the fire none.

Her great anxiety was that his manuscripts should be published, in order that the world might know his worth, and estimate the treasure it had lost. An eulogistic notice of her brother from the pen of Madame Sand appeared in the 'Revue des Deux Mondes,' of May 15, 1840. This first brought Maurice's name before the public, and it contained a sort of prose poem called 'Centaure,' which was found amongst his papers. The idea of the subject, as well as of another short piece called 'Bacchante,' included in the recent edition of his works, was formed in the course of several visits he paid to the Museum of Antiquities in the Louvre in company with M. Trebutien, a distinguished antiquary, and Conservator of the Library of Caen. He is also the friend who has devoted himself with affectionate zeal to the task of publishing the remains of both brother and sister—'his mission,' as he

calls it, 'here below.' The 'Centaure' is supposed to relate to Melampus the story of his birth and early life in the dark caverns of the mountains. We will quote the concluding passage by way of specimen of the style :—

For myself, O Melampus, I decline into old age tranquil as the setting of the constellations. I preserve still sufficient daring to scale the lofty top of the rocks, where I linger, engaged either in watching the wild and restless clouds, or in viewing the watery Hyades, the Pleiades or the great Orion come up from the horizon. But I am conscious that I am sinking, and fall rapidly, like a snow-flake floating on the waters, and that soon I shall pass away to mingle with the rivers that flow on the vast bosom of the earth.

Unforeseen difficulties occurred to prevent the publication in a collected form of what Maurice had written. Eugénie was profoundly ignorant of the mysteries of publication, and confided entirely to others the fulfilment of the wish which was now dearest to her heart. But she occupied herself diligently in gathering manuscripts and letters, adding, as it were, stone to stone for the cairn which was to be raised to her brother's memory. And in the meantime, with a broken heart, at different intervals, she continued her Journal, and still addressed it to him with the touching inscription :—

Still to him, to Maurice dead ; to Maurice in Heaven. He was the glory and the joy of my heart. Oh ! how sweet and full of affection is the name of Brother ! Friday, 19 July, at 11½ o'clock. Eternal date !

At last the book appeared.<sup>1</sup> It was published at the end of 1860, and has already passed through several editions. It was preceded by a biographical and critical notice written by M. Sainte-Beuve, one of the first of French critics. He calls the 'Centaure' 'a magnificent and singular composition . . . a colossal fragment of antique marble,' and speaks of 'the youth of a select school, a scattered generation of admirers, who repeated to each other the name of Guérin, who rallied round that young memory, honoured it in secret with rapture, and looked forward to the moment when the complete work would be delivered to them, and when the whole soul would be discovered to them.' This strain of eulogy appears to us to be extremely exaggerated ; but the romantic narrative of the lives of these young persons has excited an unusual interest in their literary efforts. The same writer also speaks of

<sup>1</sup> The work was entitled 'Maurice de Guérin. *Reliquia*, 2 vols. in 16.' The new edition is entitled 'Maurice de Guérin. Journal, Lettres et Poèmes.'

Eugénie as 'his equal, if not his superior, in talent and in soul.' She did not live to see the wish of her heart gratified by the publication of her brother's works, for, on the 13th of May, 1848, she herself died, and rejoined him in heaven. She lived, after her brother's death, very much the life of a religious recluse, devoted to works of charity in the neighbourhood. Her father survived her only six months, and Erembert died two years afterwards, leaving a widow and one daughter. Caroline returned to India, and, marrying again, died young ; and now of the whole family there remain, we believe, only Madlle. Marie de Guérin, and the daughter of Erembert, who still inhabit the old château of Le Cayla.

We will now proceed to quote some extracts from the Journal, taken almost at random, conscious as we are how difficult it is to choose where all is so beautiful, and conscious also, alas ! how much of their beauty will be lost in a translation. Almost the whole of them were written by Eugénie in her solitary *chambrette* at Cayla, very often while the nightingale was pouring out its song beneath her window, and the glorious canopy of a Southern sky was studded with stars before her view. It was there that she most loved to be—'an anchorite,' as she expressed it, 'in her cell.' 'Like the dove,' she said, 'I love to return every evening to my nest ; I covet no other place :—

Je n'aime que les fleurs que nos ruisseaux arrosent,  
Que les prés dont mes pas ont foulé le gazon ;  
Je n'aime que les bois où nos oiseaux se posent,  
Mon ciel de tous les jours et son même horizon.

Nothing could be more simple or more uneventful than her daily life. In her little room, with her distaff by her side, she span and read, and thought and wrote ; now caressing a pet pigeon, or linnet, or goldfinch, now putting aside her Journal or her work to kneel down and pray, now rising like Eve, 'on hospitable thoughts intent,' to descend into the kitchen and preside over the mysteries of the oven, or to go out and carry alms to some poor cripple in the village.

She describes her favourite room thus :—

The air this morning is mild, the birds sing as in spring, and a little sun pays a visit to my chamber. I love it thus, and am as much pleased with it as with the most beautiful place in the world, lonely as it is. The reason is that I make of it what I please, a saloon, a church, an academy. I am there, when I like, in company with Lamartine, Chateaubriand, Fénelon : a crowd of men of genius surrounds me ; anon there are saints.

On the chimney-piece was an image of the Virgin, above that a print of Christ, above that again a portrait of Saint Theresa, and, surmounting all, a picture of the Annunciation ; 'so that,' she says, 'the eye follows a celestial line as it gazes and travels upwards. It is a ladder which leads to heaven.'

Under the date November 18, 1834, she writes :—

I am furious against the grey cat. That naughty animal has just carried off a little frozen pigeon which I was warming at the corner of the fire. It began to revive, poor creature ! I wished to tame it ; it would have loved me ; and all that crunched by a cat ! What mishaps in life ! This event, and all those of to-day, have passed in the kitchen ; it is there that I stay all the morning and part of the evening since I have been without Mimi. It is necessary to superintend the cook, and papa sometimes comes down, and I read to him near the oven, or at the corner of the fire, some morsels of the antiquities of the Anglo-Saxon Church. This big book astonished Pierril (a servant lad). 'What a lot of words are in it !' he said, in his patois. He is a droll creature. One evening he asked me if the soul was immortal, and, afterwards, what a philosopher was. We discussed grand questions, as you see. Upon my answering that it was a person of wisdom and knowledge, he remarked, 'Then, Mademoiselle, you are a philosopher.' This was said with an air of naïveté and sincerity which might have flattered Socrates, but which made me laugh so that all my seriousness as a catechist was put to flight for the evening. There he is, with his little pig searching for truffles. If he comes this way, I will go and join him, and ask him if he still finds me with the air of a philosopher.

With whom would you believe I have been this morning at the corner of the kitchen fire ! With Plato. I hardly ventured to say so, but my eyes lighted upon him and I wished to make his acquaintance. I am only at the first pages. He seems to me admirable, this Plato, but I think it a singular idea of his to place health before beauty in the catalogue of blessings which God has given us. If he had consulted a woman, Plato would not have written that ; do you think he would ? I think not ; and yet, remembering that I am a 'philosopher,' I am a little of his opinion. . . . . When I was a child I should have wished to be pretty. I dreamed only of beauty because I said to myself, mamma would have loved me more. Thank God ! that childishness is past, and I desire no other beauty than that of the soul. Perhaps even in that respect I am a child, as heretofore. I should like to resemble the angels.

24th April, 1835.—I know not why it has become necessary for me to write, if it were only two words. To write is my sign of life, as it is of the fountains to flow. I would not say it to others ; it would appear folly. Who knows what this outpouring of my soul is, this unfolding itself before God and before some one ? I say some one, for it seems to me that you are here, and that this paper is you. God, methinks, hears me : He even answers me in a way which the soul understands, and which one cannot express. When I am alone, seated here, or on my knees before my crucifix, I fancy myself Mary, listening tranquilly to the words of Jesus.

There is one passage twice repeated, in which, after quoting an extract from the works of Leibnitz, where he speaks of 'a pious, grave, and discreet confessor, as a great instrument of God for the salvation of souls,' she bursts out into a strain

of fervent rapture on the subject, in language which, however exaggerated, shows how deep and sincere was her conviction of the benefit she derived from the Confessional. Under date April 28, 1835, she writes :—

The world knows not what a confessor is—that friend of the soul, its most intimate confidant, its physician, its master, its light ; the man who binds us and unbinds us, who gives us peace, who opens to us heaven, to whom we speak on our knees, calling him like God our Father. Faith makes him truly God and Father. When I am at his feet I see in him nothing else but Jesus listening to Magdalene, and forgiving her much because she has loved much. Confession is only an overflow of repentance in love.

We will give two or three more extracts from her Journal of the same year :—

1 *August*, 1835.—This evening my turtle-dove has died ; I know not from what cause, for it continued to coo up to to-day. Poor little creature ! what regret it causes me ! I loved it ; it was white ; and every morning it was the first voice I heard under my window, in winter as well as in summer. Was it mourning or joy ? I know not, but its songs gave me pleasure. Now I have a pleasure the less. Thus each day we lose some enjoyment. I mean to put my dove under a rosebush on the terrace ; it seems to me that it will be well there, and that its soul (if soul there be) will repose there sweetly in that nest beneath the flowers. I have a tolerably strong belief in the souls of animals, and I should even like there to be a little paradise for the good and the gentle, like turtle-doves, dogs, and lambs. But what to do with wolves and other wicked minds ? To damn them ? That embarrasses me. . . .

24<sup>th</sup>.—How quickly it passed, my dear, the night passed in thinking of you ! The day dawned when I fancied it was midnight ! it was, however, three o'clock, and I had seen many stars pass, for from my table I see the sky, and from time to time I regard it and consult it, and it seem, that an angel dictates to me. From what source except from on high can there occur to me so many ideas, tender, elevated, sweet, true and pure, with which my heart is filled when I commune with you ? Yes, God gives them to me, and I send them to you.

When her brother's friend, Hyppolyte de la Morvonnais, had lost his wife, a correspondence was kept up between him and Eugénie, and he thanked her in one of his letters for her ' ineffably tender ' thoughts. Upon this she says in her Journal, August 27, 1835 :—

. . . . . I feel my own aridity, but I feel also that God, when He pleases, makes an ocean flow over this bed of sand. It is thus with so many simple souls from which proceed admirable things, because they are in direct relation with God, without science and without pride. So I lose my taste for books ; I say to myself, ' What can they teach me which I shall not know one day in Heaven ? Let God be my master and my study ! ' I do thus, and I find myself benefited by it. I read little, I go out little, I bury myself in my own thoughts. There many things are said, and felt, and happen. O ! if you saw them ! but what good is it to show them ? God alone can penetrate the sanctuary of the soul. Mine to-day abounds in prayer and poetry. It is a wonder to me how those two fountains flow together in me and in others.

Her mind was too sensitive, and her feelings were too finely strung for her own happiness. Not quarrelling with the tastes of others, she herself cared nothing for the gaieties of life, and a certain degree of restlessness and dissatisfaction is visible both in her Journal and her Correspondence. Indeed, she more than once complains of *ennui* as her besetting enemy: but her sure refuge was religion, and she was rewarded by the gift of that peace which passeth all understanding. Thus we find her saying in her entry dated March 20, 1836:—

To-day, and for a tolerably long time, I have felt calm, with peace of head and heart, a state of grace for which I bless God. My window is open; how calm it is! all the little sounds from without reach me; I love that of the rivulét. Adieu! I hear at this moment a church-clock, and a house-clock that answers to it. This striking of hours in the distance and in the hall assumes in the night something of a mysterious character. I think of the Trappists, who awake to pray; of the sick, who count in suffering all their hours; of the afflicted, who weep; of the dead, who sleep frozen in their bed. Oh! how the night makes serious thoughts occur! I do not believe that the wicked, the impious, the unbeliever, are as perverse in the night as in the day. A gentleman who doubts many things has often said to me that at night he always believed in hell. The reason apparently is that in the daytime external objects dissipate our thoughts and distract our soul from truth. But what am I going to say? I had to speak of such sweet things. I have received your ribbon this evening, the net, the little box with the beautiful pen and the pretty little billet. All this I have touched, tried, examined, and put to my heart. A thousand thanks!

We will now quote two or three passages which exhibit her in different moods:—

5 Dec., 1834.—Papa is gone this morning to Gaillac, and here we are, Mimi and I, sole *châtelaines* and absolute mistresses. This regency is not amiss, and pleases me well enough for a day, but not longer. Long reigns are wearisome. It is enough for me to rule over Trilby (a favourite dog), and get her to come to me when I call her, or when I ask her to give me a paw. . . .

9 Dec., 1834.—I have just been warming myself at all the fire-places in the hamlet. It is a round which I make from time to time with Mimi, and which has its *agrémens*. To-day it was a visit to the sick, so we talked of remedies and drinks—‘Take this, do that;’ and we are listened to with as much attention as any doctor. We prescribed for a little child who was ill from walking barefooted—to wear wooden shoes; for his brother who was lying flat with a bad headache—to put a pillow under his head; that has relieved him, but it will not cure him, I fancy. . . .

19 May, 1835.—Here I am at the window listening to a choir of nightingales which sing in the Moulinasse wood in a ravishing style. Oh! what a beautiful scene! Oh! what a beautiful concert! which I leave in order to carry alms to poor lame Annette.

11 March, 1836.—I have great joy in my heart to-day; Evan (her other brother) is gone to confess. I hope much from this confession with our gentle curé, who knows how to speak so well of the compassion of God. It is, besides, Papa’s birthday.

1 May, 1837.—. . . . You are right in saying that I employ a little artifice



to conceal my Journal. I have, however, read some of it to Papa, but not all. My good father would, perhaps, be somewhat concerned at what I say, and at what now and then occurs to me in my soul. An air of sorrow would seem to him a real distress. Let us hide from him these little clouds; it is not good that he should see them, and know anything else of me except the calm and serene side. A daughter out to be so sweet and gentle to her father! We ought to be to them almost what the angels are to God. Between brothers and sisters the case is different; there is less restraint and more *abandon*. To you, then, the course of my life and of my heart, just as it comes.

9 May, 1837.—A day passed in hanging out linen to dry leaves little to say. It is, however, pretty enough to stretch white linen on the grass, or to see it floating on ropes. One is, on those occasions, if so pleased, the Nausicaa of Homer, or one of those princesses in the Bible who washed the tunics of their brothers.

29 May, 1837.—Life is like a road bordered with flowers, trees, bushes, herbs, a thousand things which would fix without end the eye of the traveller; but he passes on. Oh! yes, let us pass on without lingering too much on what one sees on earth, where everything fades and dies. Let us look on high, let us fix our eyes on the skies and the stars; let us pass from them to the heavens which will not pass away. The contemplation of Nature leads there; from objects of sense the soul mounts to the regions of faith, and sees the creation from on high, and the world appears then quite different.

14 Feb., 1838.—If I had a child to bring up, how gently and gaily would I do it, with all the care that one bestows on a delicate little flower! Afterwards, I would speak to it of the good God in words of love; I would tell it that He loves it better than I do; that He gives me all that I give it, and, besides, the air, the sun, the flowers; that He has made the sky and so many beautiful stars. Those stars, I remember how they gave me a beautiful idea of God, as I often rose, when I was put to bed, to gaze upon them through the little window at the foot of my bed.

At times Eugénie felt an almost irresistible longing to enter a convent, but was deterred by the thought of her home duties, and also by the clinging love she bore to her father and all her family. Her good sense and acute judgment were hardly less remarkable than her piety. After expressing how much she enjoyed reading the lives of hermits and recluses—‘at least such as are not inimitable;—as to the others, one admires them like the pyramids’—she goes on to say:—

In spite of this, for many persons the ‘Lives of the Saints’ seems to me a dangerous book. I would not recommend them to a young girl, nor even to others who are not young. The reading has such an effect on the heart, which thus loses itself sometimes, even for God? . . . . How one ought to watch over a young woman!—over her books, her correspondence, her companions, her devotion, everything which demands the tender attention of a mother. If I had had nine, I remember things which I did at fourteen years of age which she would not have allowed me to do. . . . So François de Sales once said to some nuns who begged him to allow them to go barefoot, ‘Change your brains, and keep your shoes.’

Like her brother Maurice, she was an accurate and imagi-

native observer of external nature, and very prettily could she describe the objects that caught her attention. Thus :—

I love the snow : that white aspect has something heavenly in it. Mud and bare earth displease and sadden me. To-day I perceive only the traces of roads, and the feet of little birds. However softly they alight, they leave their little tracks, which make a thousand figures in the snow. It is pretty to see those small red claws, like pencils of coral, that make the drawings.

Or, when writing in the wooded country of the Nivernois :—

It is in the sweet air of May, as the sun rises on a day radiant and fragrant, that pen travels over the paper. It does one good to rove in this enchanting scenery amongst flowers, and birds, and verdure, under the ample blue sky of the Nivernois. I like much its graceful goblet-shape, and those little white clouds here and there, like cushions of cotton hanging to give repose to the eye in that immensity.

We know not whether Eugénie was ever in love ; but she alludes to the early death of a cousin Victor in a way that makes it probable that she cherished for him a tenderer feeling than that of friendship. She certainly had no prejudice against marriage, and in one passage showed that she had formed visions of 'love in a cottage' for herself which were not destined to be realised. On February 9, 1838, she writes, half seriously and half in jest :—

I have never dreamed of grandeur or of fortune, but how often of a small house away from a town, very clean, with its wooden furniture, its bright earthenware, its lattice-work at the entrance—some chickens, and myself there with—I known not whom—for I should not fancy a peasant like one of ours, who are boorish, and beat their wives !

After her brother's death she—as we have mentioned—continued her Journal, and still addressed it to him, or sometimes to one of his surviving friends, a M. d'Aurevilly, whom she calls her 'brother by adoption.' The tone of it now becomes inexpressibly mournful, although the thoughts are as beautiful as ever.

It begins with the date July 21, 1839 :—

No, my beloved one, death shall not separate us, it shall not remove you from my thoughts. Death separates only the body ; the soul, in place of being there, is in Heaven, and this change of dwelling takes away nothing from its affections. O ! my friend Maurice, Maurice, are you far from me ? Do you hear me ? What are those regions where you now are ? What is God, so beautiful, so good, who makes you happy by His ineffable presence, unveiling for you eternity ? You see what I wait for, you possess what I hope for, you know what I believe. Mysteries of the other world, how profound you are, how terrible you are, but how sweet you sometimes are ! yes, very sweet, when I think that Heaven is the

place of happiness. . . . . All my life will be a life of mourning, with a widowed heart, without intimate union. I love Marie, and my surviving brother much, but it is not with *our* sympathy.

On August 17, 1839, she writes :—

Began to read the ‘Saints desirs de la Mort,’ a book much to my taste. My soul lives in a coffin. Oh ! yes entombed, sepulchred in thee my friend ; just as I lived in thy life I am dead in thy death. Dead to all happiness, to all hope here below. I had placed all in thee like a mother on her son ; I was less of a sister than a mother.

She expresses the same idea in some unpublished verses addressed to her brother, which we have seen, and in which, alluding to the death of her mother, the following lines occur :—

Elle me dit : ‘A ton amour,  
Ma fille, je confie un frère ;  
Dans les soins d’une sœur qu’il retrouve sa mère :’—  
Et je devins ta mère dès ce jour.

We are glad to learn that M. Trebutien has been able to collect a sufficient number of Eugénie’s letters to justify their appearance in a separate volume, which will shortly be published, together with a few fragments of other parts of her Journal which have not yet appeared.<sup>1</sup> But he has been unable to recover the two missing *cahiers* which she wrote, and which probably no longer exist. M. Trebutien has kindly favoured us with a sight of part of his forthcoming publication, and we will give a last extract from it.

The following is from a letter written to a sick friend in Paris, the date of which is May 5, 1838 :—

I resume my pen to the song of the nightingale which is singing beneath my window. It is delightful to hear it, and write, as it were, under its dictation. Sweet musician ! I wish it were in your room at Paris ; it would give you pleasures, but these bards of solitude do not like to leave us. Besides we, hermits that we are, require our concerts—God does not wish that we should be without pleasures. The fields are full of them : flowers, verdure, beautiful plants at every step, birds everywhere—and then the air—the embalmed air. What a charm there is in a walk—and to wander like the partridges ! Yesterday we went to see the invalid, a poor man, one of our friends, who was suddenly seized with a brain-stroke. It was distressing to hear him delirious, and to hear his poor wife and little children who wept. Ah ! my God, it was heart-rending ; but there is a way to comfort these poor people. It is to speak to them of God, who afflicts in this world to render happy in the next. . . . .

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<sup>1</sup> The volume was published in 1865. It is entitled *Lettres d’Eugénie de Guérin*, par G. S. Trebutien.

Our chief object in making these selections has been to bring under the notice of our readers the character and writings of a person of whom perhaps not many of them have heard, but with whom those who share her sentiments may wish to become better acquainted. We have no doubt that the new volume will be received with the same interest that has been shown in the case of Eugénie's other writings, and that it will disclose more of the same beauty of style, purity of thought, and fervour of religion, which are her characteristics and her charm.

## THE TUNNEL THROUGH THE ALPS.<sup>1</sup>

‘Edinburgh Review,’ 1865.

AMONGST the ‘imperial’ works and worthy kings’ which this age, prolific in triumphs of engineering skill, has produced, there is none which—whether we regard the difficulty of the undertaking or the importance of the object—more conspicuously challenges attention and deserves admiration than the great tunnel through the Alps, now steadily advancing, of which we propose, in the following article, to give a short account.

Although the most frequented in modern times, the Mont Cenis is by no means the oldest of the passes of the Alps. It seems not to have been known to the ancient Romans, nor to have been used as a highway, or at all events not as a military road, until the Middle Ages. Recent researches have established the fact, almost beyond a doubt, that Hannibal led his army into Italy by the pass of the Little St. Bernard. To reach the north of Italy and the plains of Lombardy from France, however, the shortest route is by way of Chambéry and the valley of the Arc. The railway, which leaves the Paris and Lyons line at Ambérieux and passes by Culoz and Chambéry, has been pushed forward to St. Michel in that valley, and from this point the traveller proceeds in a diligence as far as the village of Lans-le-bourg—a distance of about sixteen miles—where the ascent of the Mont Cenis begins. About one-fourth of the distance between St. Michel and Lans-le-bourg, in a romantic part of the deep valley through which the rapid torrent of the Arc forces its way—

<sup>1</sup> 1. *Traforo delle Alpi tra Bardonnèche e Modane: Relazione della Direzione Tecnica alla Direzione Generale delle Strade Ferrate dello Stato.* Torino : 1863.

2. *Rapport adressé à la Compagnie des Chemins de Fer du Nord de l'Espagne sur les Travaux de Percement du Mont*

*Cenis.* Par M. NOBLEMAINE. Neuilly : 1861.

3. *Notice Historique sur la Percée du Mont Cenis et les Nouvelles Machines de MM. Sommeiller, Grandis et Grattoni.* Par M. BONJEAN. Chambéry : 1863.

shut in by lofty snow-covered mountains—lies the poor little hamlet of Fourneaux, and about a mile beyond it the larger but still insignificant village of Modane. On the right of the road, close to Fourneaux, the attention of the traveller is arrested by numerous white buildings which have the appearance of barracks; behind them a steep inclined plane, with two lines of iron tramway, ascends to a considerable height, and stops at two square-framed doors placed against the side of the mountain, near which are perched a few cottages and workshops. On the same line with the top of the incline, and a few paces to the east or left, may be distinguished a semicircular hole, out of which the spectator may perhaps, at the moment when he gazes, see a wagon or wagons issuing loaded with broken stones, and tilting their contents down the steep side of the mountain. Those buildings are the dwellings and workshops of the men employed in piercing the Alps, and that hole is the mouth of the great tunnel itself on the Savoy or northern side.

Hopeless indeed must have appeared even a few years ago the idea of carrying a railway through the mighty barrier with which Nature has girdled Italy, and which, while it has too often failed as a defence against invasion, has had the effect of isolating her in a great degree from the rest of Europe, and has impeded her material prosperity. The genius of Napoleon did much when under his auspices the Simplon road was made, and the traveller could climb the lofty summit of the Alps comfortably seated in his carriage. M. Céard of Geneva, to whom that noble work is due, the more remarkable as it was the first of its kind, relates in his account of it that the Emperor Napoleon frequently summoned him to his presence to ask the same question: '*Eh bien! le canon, quand passera-t-il le Simplon?*' This was followed by similar roads across the St. Gothard, the Splügen, and the Stelvio; and when these magnificent roads were completed, it seemed as if all had been done that engineering skill could accomplish to make a highway into Italy. Nor is it likely that more would have been attempted if steam had not entirely changed the nature of the case. The delay occasioned on a long journey by the ascent and descent of these mountain-passes was little felt when the greatest rate of

speed on level roads did not exceed eight or nine miles an hour. But when railways began to spread their multitudinous arms on both sides of the Alps—when they crept up the valleys, and the course of the locomotive was suddenly arrested by the frowning masses of rock which seemed to say, ‘Thus far shalt thou come and no farther’—when the traveller had to exchange the luxurious saloon in which he was whirled along like an arrow through the air for the uncomfortable seat of a slow and jolting diligence—the question irresistibly occurred, ‘Is it possible for a locomotive to scale that lofty wall? or, if not, is it impossible to carry on the railway *through* the Alps?’ The Austrian engineers, who have shown the greatest boldness and skill in the construction of Alpine roads, were the first to deal with this difficult problem. The railroad from Vienna to Trieste crosses the Noric chain of the Alps at Semmering. The line ascends in gradients varying from 1 in 40 to 1 in 100 for 25 miles from Gloggnitz station to the summit of the pass, and then crosses the watershed in a tunnel 4,000 yards in length at an elevation of 2,893 English feet above the sea. This colossal work was accomplished for the Austrian Government by the engineer Carlo Chega, between 1848 and 1854. Another line of railway is also far advanced across the Brenner, between Botzen and Inspruck, which will open a very easy and direct mode of communication between Central Europe and Northern Italy. But the Italian Government was naturally anxious that these important Alpine passes for steam-carriages should not be exclusively in the hands of Austria; and they therefore applied themselves with great energy to open a similar connexion between the Italian kingdom and the French provinces both of Savoy and of Nice.

At first the favourite idea was that a practicable railway could be so constructed as to climb the mountain, and many were the ingenious schemes devised for the purpose. Perhaps in nothing has engineering science made more rapid progress than in the power of overcoming steep gradients. We well remember when the man would have been thought a visionary who should have proposed to make a locomotive line with a gradient of one in fifty; even one in a hundred was thought a formidable obstacle. Now, however, gradients are faced of

one in thirty, or even one in twenty-seven, of which an example exists in England, and a ruling gradient of one in fifty is only considered objectionable, inasmuch as it limits the carrying power of the engine, and so increases the ratio of the working expenses to the gross returns. It is, in fact, a mere question of expense. But the gradient of the Alps! That was a gradient which transcended all experience. Still, engineers did not despair. The possibility of a railway across the Simplon was seriously discussed, and we believe that the late lamented Mr. Robert Stephenson was employed by a company to survey the pass, but his report was unfavourable. We remember, ten years ago, meeting in a small *chalet* near the summit of the mountain a foreign gentleman surrounded by maps, and plans, and sections, who told us that he was bent upon the same errand. Stationary engines, cog-wheels, pneumatic tubes—every kind of mechanical apparatus, were proposed to meet the difficulty, but hitherto without result.<sup>1</sup>

A tunnel was thought of and talked of, but it seemed the dream of enthusiasts. The difficulties in the way were indeed tremendous, and might well appal the boldest engineer. In the first place, the length would be much greater than had ever been before attempted, and how was a sufficient quantity of air to be obtained in the gloomy heart of the mountain to enable the passengers to avoid suffocation? How, in the progress of the excavation, were the workmen to breathe? At the distance of miles in the interior what might not be

<sup>1</sup> An experimental line is at this moment in operation on the Mont Cenis, on the plan invented by Mr. Fell, an American, for the application of steam traction to ordinary carriage roads across mountains. The spot selected for the trial is on the zigzag road that ascends the mountain on the Savoy side, and the line is two miles and a quarter in length. The inclines vary from 1 in 23 to 1 in 12, and the smallest radius of the curves is one-fifth of a furlong. There are three sets of rails, of which the middle one is placed on an elevation, and it is used to secure the adhesion of four horizontal wheels attached two to each side of the locomotive. The lower rim of each of these wheels has a catch that firmly clasps the middle rail, so as to prevent the engine from being thrown off the

line. They have also a lateral movement which acts as a powerful break and enables the train to be almost instantaneously stopped, even when going at full speed. It is calculated that by means of this system, when completed, the distance between St. Michel and Susa could be traversed in four hours and a half. We saw the locomotive at work a few months ago, and the effect at a distance was very curious. It seemed with its train like an avalanche descending the mountain, and the illusion was increased by the long line of steam which floated above the snow and was hardly distinguishable from it.

[The above was my original note in 1865. Since then the Fell Railway has been completed, used, and finally abandoned. 1874.]



found? Perhaps some yawning chasm and dark unfathomable abyss—or, still worse, some subterranean lake which, bursting through the aperture, would drown the workmen and sweep in a resistless torrent through the gallery. The materials of the rock might be harder than granite or the hardest whinstone yet encountered, which so often in Scotland has tired the patience and exhausted the purse of the contractor. To put down bores, the ordinary mode of ascertaining the nature of the ground to be excavated, was of course out of the question, and the imagination ran riot as it depicted the character of the unknown region of the interior. The quickest and cheapest mode of making ordinary tunnels is by sinking vertical shafts at intervals from the summit, but this would be plainly impossible in the Alps. It has been calculated that it would take forty years to make one of these shafts so as to strike the line of the axis of the Alpine tunnel; and if, owing to the almost insuperable difficulty of sinking a vertical one, it were made oblique, it would be as long as the actual tunnel itself. The gallery, therefore, must be excavated by horizontal cutting from end to end, although, of course, the cutting might begin at each extremity at the same time, and go on simultaneously until the two sections met half-way in the middle of the mountain. But here a fresh difficulty occurred. Suppose that the lines did *not* meet? It is obvious that, unless the axis of each half of the tunnel was mathematically in the same straight line, the result would be either that the one line would cross the other at an angle impracticable for a locomotive, or that they would be in parallel lines and so miss each other, causing thus the expense to be incurred of two tunnels instead of one. In fact, a more serious mistake would be committed than that which is said to have happened in Ireland, where a line of railway was begun at the two ends with different gauges, and it was not until each half of the work was completed that it was discovered that the one would not fit into the other.

Notwithstanding, however, all objections and all obstacles, the minds of thinking men were haunted with the idea of the practicability of a tunnel, and it was even made the subject of poetry. In 1851 the Academy of Sciences in Savoy offered a prize for the best poem on *la Percée du Mont Cenis*;

and the successful competitor was a lady, Mdlle. Chevron, of Barberaz, of whose verses, however, we are not able to speak in very high terms. She represents the Mont Ceniz as angry at the *affront* it was about to suffer at the hands of unromantic engineers :—

Le Mont Ceniz pourtant lève un front courroucé,  
S'indignant de l'affront dont il est menacé.

And the injured mountain exclaims :—

Et l'on viendrait tenter de me réduire en poudre,  
Quand depuis six mille ans je résiste à la foudre.

Happily, however, as we shall see, Mont Ceniz has been spared this humiliation.

The first question was to determine the spot which presented the conditions most favourable for the solution of the problem. These obviously were : 1, the least thickness in the intervening barrier, or, in other words, the shortest passage through the mountains ; 2, the most penetrable kind of rock ; and 3, the most convenient points on each side for connecting the tunnel with the existing railways in Savoy and Piedmont. The honour of first hitting upon the exact place on the Italian side, which subsequent researches have confirmed as that which is most suitable for the line of the tunnel, is due to an inhabitant of the village of Bardonnèche in the valley of Rochemolles, which runs parallel in Piedmont to the valley of the Arc in Savoy. His name was Joseph Médail, and he was a contractor for public works in the neighbourhood. In 1832 he drew up a report to the King, Charles Albert, in which he indicated the point afterwards chosen for the commencement of the work. But Médail's idea of the direction which the tunnel ought to take was different from that which was finally selected. After ten years of laborious investigation and solitary wanderings amongst the mountains, he, in 1842, communicated to the Chamber of Agriculture and Commerce, at Chambéry, a project for carrying the tunnel in a north-westerly direction so as to communicate with the French railways running towards Lyons. King Charles Albert now summoned to his councils a Belgian engineer named Maus, who was favourably known for the skill with which he had overcome the difficulty of carrying a practicable railway down-

the steep descent that leads to the city of Liège. Assisted by M. Sismonda, the naturalist, he devoted four years to the study of the problem, and at last determined upon the line for the tunnel which has ultimately been adopted. According to his plan the extremity of the tunnel at Bardonnèche would have been considerably higher than the extremity on the opposite side, so that there would have been a continuously ascending gradient from the entrance in Savoy to the exit in Piedmont. It is obvious that by this arrangement, as the work commenced on the Bardonnèche side must have proceeded, so to speak, downhill, there would have been considerable difficulty in getting rid of the water in what may be called the Italian section of the tunnel. This difficulty has been obviated by making an ascending and a descending gradient. The tunnel rises from the Savoy side with an easy gradient until it reaches the middle of the mountain, and it then falls almost insensibly towards Bardonnèche. When we remember that in the fens of Lincolnshire the drainage of large districts is effected by means of a fall not more than an inch in a mile, we see at once how extremely slight the inclination need be which will carry off the water from the works of the tunnel.

After the disastrous campaign of 1848, and the battle of Novara, which laid Piedmont prostrate at the foot of Austria, the question of the Alpine tunnel slept for a time. There was neither money nor spirit for such an enterprise. A commission was appointed, and this reported unfavourably on an apparatus which had been invented by M. Maus for perforating the rock. But when Count Cavour became the head of the Government, his energetic intellect revived the scheme of the tunnel and gave it a practical development. A concession was made to a French company of a line connecting the Mont Cenis with the railways of France by the valley of the Arc. In Piedmont the Italian Government undertook the construction of a line along the valley of Dora Riparia as far as Susa on the other side of the mountain, and for some time the idea was entertained of the possibility of carrying a tramway across the Alps, and so connecting the two systems of railway. Independently, however, of all other difficulties, there was one which, in an economic point of view, rendered

such a scheme objectionable. To overcome a given height a locomotive must expend as much force as is required for travelling a given length; and it was found, on calculation, that to climb to the top of the Mont Cenis was equivalent to adding more than ninety-two miles to the length of the journey which the train would have to perform.

The next step was to consolidate the two lines of railway on each side of the Alps in the hands of the same company; and the distance between Culoz in France and the extremity of Lombardy, with the exception of the interruption caused by the pass of the Mont Cenis, was traversed by a railway to the whole of which the name of the Victor Emmanuel line was given. This stimulated the desire to drive a tunnel through the wall of rock which broke the chain of communication, and the aid of the science of geology was invoked to examine the structure of the mountain range, and by inference and analogy declare what was the secret of its interior. It was found that the rock might be divided into two classes, anthracite and oolite, and subdivided into groups, of which mica, talc, limestone, and quartz were the distinguishing ingredients. So far as the excavation has yet gone, the result has corresponded with the theory, and on the Savoy side may be seen the constantly increasing heap of anthracite stone which is dug out of the bowels of the mountain and thrown down its side so as to form an artificial platform like the works of a slate quarry.

In the meantime, an English engineer, named Bartlett, had patented, in 1855, a machine for perforating the rock. The principle of this engine was a combination of steam and compressed air, by which an iron bar was darted out like the tongue of an adder against the opposing rock with wonderful velocity and force. It worked admirably under ordinary circumstances—that is, in open cuttings and short tunnellings. But it was useless for a project in which the chief desideratum was to keep up a supply of fresh air. Steam could only be produced by fire, and fire is the great devourer of air, so that to introduce it into the Alpine tunnel would have been a kind of suicide. The glory of inventing a method by which steam should be superseded, and compressed air alone employed as a motive power, was reserved for three Italian engineers

acting together in amicable concert, MM. Sommeiller, Grandis, and Grattoni. They had been sent, when young men fresh from the University of Turin, by the Sardinian Government in 1846, to Belgium and England to study railway engineering ; and on their return to Italy, in 1850, their attention was directed almost accidentally to the question of compressed air as a moving force. They agreed to work out the idea in common, and endeavour by joint studies and experiments to give a practical application of the principle. We are not able to apportion the degree of merit which belongs to each in the course of this remarkable partnership of inventive ingenuity, nor is it necessary that we should do so. They were content to throw their ideas into a common stock, and they are all equally entitled to share in the honour of the product, which is the machine now so successfully employed in piercing a tunnel through the Alps, and which acts simply by the force of air reduced to one-sixth of its ordinary volume or bulk by means of the pressure of water.

The advantages of employing such a principle, if it could be practically made to work, were immense. Air costs nothing, nor does water in a country where it abounds. Its supply was unlimited in the neighbourhood of the two sides of the mountain where the tunnel was likely to be attempted ; and as no fuel—that costly element in the generation of steam—would be required, the only expense of any moment would be the machinery by which the water could be brought to act upon the air by way of permanent pressure, so as to reduce it to a given fraction of its volume, and thereby increase its force in a corresponding ratio.

But it was not to the object of making a tunnel through the Alps that the labours of M. Sommeiller and his colleagues were first directed. They were in hopes of inventing a machine which, by means of the agency of compressed air, would be able to work the steep and dangerous inclines of the railway between Turin and Genoa, where it issues from the long tunnel of Giovi in the Apennines. And they did produce a machine, the principle of which found such favour in the eyes of the Sardinian Government, led on by Count Cavour in 1854, that the right was granted to the three engineers of applying it within a limited period to the pro-

pulling of trains up those inclines. It was, however, destined to achieve a nobler work ; for the idea now occurred to M. Sommeiller and his friends that if a combination could be effected between Bartlett's perforating apparatus and the new compressing engine, the result would be just the kind of machine required for piercing the Alps. In 1856 a bill was carried through the Chambers which authorised the Government to undertake the necessary experiments under the direction of MM. Sommeiller, Grandis, and Grattoni. But some idea of the cost and difficulty of these experiments may be formed when we mention that the whole of the machinery had to be made in Belgium, at the foundry of Messrs. Cockerell, near Liège, and transported to Piedmont. The place chosen for these experiments was La Coscia, near San Pier d'Arena, and here at last the problem was practically solved. The report of a Government Commission appointed to examine the question in 1857 was favourable, and a machine, or rather a series of machines, was produced, of which M. Sommeiller, then himself a member of the Sardinian Parliament, could proudly say from the tribune, 'The discovery of the means of applying compressed air has now been made. The torrents of the Alps are our slaves ; they will do our work for us. The machines are erected and work regularly. When once they are established at the Mont Cenis, they will go on not for four months only, but for seven, ay, ten years, and will be always new ; for machinery which is only in contact with water does not easily wear out.' The enthusiasm with which these words were received was immense. The Giovi inclines were henceforth forgotten, and the whole power and resources of the Government were concentrated upon the establishment of works at Bardonnèche and Fourneaux, where the two ends of the great tunnel were to be commenced.

Bardonnèche is a poor Alpine village in the valley of Rochemolles, about 4,255 feet above the level of the sea, with a population, in 1857, of a thousand souls, all simple mountaineers ; and here workshops and dwelling-houses had to be built for the workmen collected to receive instruction in the difficult task before them. In the valley of the Arc they were obliged to lodge for some time at Modane, distant fully a mile

from Fourneaux which could not furnish a cottage fit to live in, and there was not a shop in the place. Well might M. Sommeiller say, 'The difficulties that were encountered at the beginning of the enterprise can be little understood by those who had not visited Bardonnèche and Fourneaux before the transformation they underwent in consequence of the works of the tunnel.' The reason why these two places were selected for the site of the two extremities of the intended tunnel was owing to the configuration of the mountain range. The two valleys, of the Arc on the Savoy side and of Rochemolles on the Piedmont side, here approach most closely to each other, and therefore the intervening barrier of rock has the least thickness, so that a hole can be bored in the wall, so to speak, at the least cost and with the least difficulty. The name of the mountain actually attacked is the Grand Vallon, although, perhaps, we ought to include that which is called Frejus, and they are both in the immediate vicinity of Mont Thabor. To speak, therefore, of the tunnel as the Mont Cenis tunnel, is a misnomer, for that mountain is fully eighteen miles distant from the scene of operations; and yet this name is constantly given to it, and it seems as if it were destined to carry off the honour, or, as Mdlle. Chevron styles it, the *affront*, of the title, just as Amerigo Vespucci, instead of Columbus, carried off the honour of bestowing his name upon the Western Continent.

The tunnel at each extremity was commenced and excavated for a short distance in the ordinary manner. The new principle and mechanism were first applied at Bardonnèche, and the iron frame and its perforators, which we shall explain hereafter, entered the gallery there on June 12, 1861.

As France had an interest in the scheme second only to the interest of Italy, a convention was soon afterwards made with the French Government to the following effect. The Italian Government was to execute the work, and on its completion France was to pay 760,000*l.* for that portion of the tunnel situated in its territory—one-half of the entire length—together with a premium of 20,000*l.* for each year, by which a term of twenty-five years, dating from January 1, 1862, was reduced. This premium was to be increased to 24,000*l.* for each year, by which a term of fifteen years was reduced,

counting from the same time. In addition, the French Government were to pay interest at five per cent. per annum on such portion of the tunnel as was finished. If, however, the Italian Government did not complete the work within twenty-five years from the date of the convention, or if they renounced its prosecution before that time, the French Government were absolved from farther payment. If the tunnel was completed in ten years from June 30, 1863, the French Government were to pay 1,287,000*l.* for the construction of one-half of the tunnel—being at the rate of 210*l.* per *mètre* or 1'09 yards.

We will now proceed to describe the plan of operations, the means employed, and the progress of the work. It was necessary first of all to determine the position of the axis of the tunnel, and this was done by marking at proper intervals on the summit certain points through which a vertical plane containing the imaginary axis would pass. This was, however, a task of no ordinary difficulty, and we have seldom perused a more interesting document than the modest report drawn up by Signor Copello, who, with another engineer named Borelli, executed this part of the work. They and their assistants had to scale the snowy barrier of the Alps and plant flagstaves or build signal-towers—no fewer than nineteen in number—above the line of the axis of the intended gallery. But how were they to determine what this line really would be between the valley of the Arc and the valley of Rochemolles?

The culminating point of the intermediate range is the top of the Grand Vallon mountain, nearly 11,000 feet above the level of the sea, and almost equidistant from the two extremities of the proposed tunnel. Here a signal-tower was placed, and from it the eye of the spectator commanded both the slopes of the mountain on the opposite sides. On the south between it and the valley of Rochemolles is the subsidiary range of Bauda, on which was placed another signal-tower, in such a position that an imaginary line drawn from a point on the mountain side of the valley of Rochemolles opposite to the southern mouth of the tunnel, would pass through the two points at Bauda, and the Grand Vallon. Owing to the great depth of the valley of the Arc, it was impossible to see



the signal-tower on the Grand Vallon from the point of the mountain horizontally opposite the spot where the northern extremity of the tunnel was to be, and it was therefore necessary to select a point much higher up the mountain from which that signal-tower was visible. This point was called *Pietra Bianca*. It was comparatively easy now to determine by means of the theodolite the vertical plane which, passing through the Grand Vallon, and cutting in two the valley of the Arc and the valley of Rochemolles, would contain the axis of the tunnel, and its two mouths would of course lie in that plane on the opposite sides of the mountain.

The distance between the two points fixed for the mouths, or, in other words, the length of the gallery, was determined by triangulation, and it was found to be 7·5932 miles. The importance of ascertaining this was with reference not only to the expense, but also the gradient, for it is intended that the tunnel shall rise from the north to the middle with an incline of 1 in  $45\frac{1}{2}$ , and then drop insensibly towards the southern extremity with an incline of 1 in 2,000; and unless the length was known beforehand, it would be impossible to get the proper gradient in driving the excavation forward into the heart of the mountain. Independently of what we may call the intellectual difficulty in accomplishing this, there were physical obstacles of no ordinary kind. Signor Copello says in his report:—

Cloud and snow and storm succeed each other in these lofty regions with rapid vicissitudes, and frequently render any operation impossible. To this must be added the necessity of ascending and descending from 800 to 1,000 *mètres* of height over rocks and by the most wretched paths. For this purpose it will be sufficient to mention the fact that, for the measurement of seven particular angles (which Signor Copello specifies), we were obliged, for seven consecutive days, to reconstruct the steep path which leads from the point called *Pelouse* to the chalets of *Rionda*, situated about 2,000 *mètres* above the sea, it rarely happening, on account of the inclemency of the weather, that we were able to observe more than two angles in a day, whilst it frequently occurred that we were not able to measure one.

On reaching the village of *Fourneaux*, the traveller observes on the left of the road an oblong building, behind which rise some twenty iron cylindrical pipes, on which rests a large tank or reservoir of water. From beneath the wall of this building issues a pipe rather less than a foot in diameter, which, divided into lengths of three or four yards each, and

jointed together by strong rivets, crosses under the road, and is carried on the right-hand side upon a series of rectangular pillars of masonry distant a few yards from each other, until it reaches the large workshop at the foot of the inclined plane of which we have already spoken. It then turns sharp round to the right, and is carried up the side of the incline like a monstrous serpent, until it buries itself in the side of the mountain at the spot where the two square-framed doors are placed. The building with the vertical pipes and tank contains the apparatus for the manufacture, so to speak, of the compressed air, and that long white painted pipe that crawls along the side of the road and climbs the steep face of the mountain is the conduit which conveys the compressed air into the mountain for the purpose of performing its marvellous work there.

It is not our intention to go into technical details in describing the different machines, which indeed could hardly be made completely intelligible without the aid of diagrams; but we think we can give a sufficiently clear account of them to enable the reader to understand their principle and mode of operation. And we will first speak of the compressing machine employed at Bardonnèche, where the work was first commenced, and where the conditions are different from those at Fourneaux as regards the supply of water power.

We have already said that the principle of the *modus operandi* is the compression of the atmosphere by means of water, so as to reduce its volume and thereby increase its elastic pressure. If a body of air is reduced to one-sixth of its ordinary bulk, it acquires an expansive force equal to that of six atmospheres, and this has been found amply sufficient for all the purposes required. The problem was how to get a constant equable supply of air at this pressure, just as a supply of steam at a given pressure is generated by means of fire constantly kept up at a certain degree of heat. It was, of course, easy to ascertain what weight of water was sufficient to compress a given quantity of air to one-sixth part of its volume, and enable the opposing forces—namely, the elasticity of the air and the pressure of the water—to exactly balance each other and maintain a state of equilibrium. But the practical difficulty was so to arrange the machinery as to have

always at command a reservoir of compressed air, like steam, ready for constant and immediate use. And here it was that the ingenuity of the three Italian engineers was called into play.

At Bardonnèche, at an elevation above the mouth of the tunnel, there is a mountain torrent called Melezet, which is never frozen in the coldest winter. If a canal were traced from this at a height of 160 feet above the works, it would be able to convey a mass of water with a moving force per second equal to 900 horse-power. But this is more than was required, and a reservoir has been constructed at a height of 85·2 feet, which gives a moving force of 208 horse-power. It must be borne in mind that the great object was to fill a receptacle or reservoir of the proper strength and solidity with compressed air, and keep it there stored for use. Let us call this reservoir A. The water confined in pipes is admitted into the compressing machine, which is like a huge inverted syphon, by opening a valve B. The door, so to speak, of the reservoir to be filled is a valve C, which opens inwards, that is, in the direction in which the water flows. When the valve B is opened, the water, obeying the hydrostatic law which makes it rise to the level of its origin, rushes forward and ascends a vertical cylinder which communicates with the reservoir A by means of the valve B, forcing back the air as with the blow of a battering-ram, until (the required amount of pressure having been duly calculated and provided for) it is compressed to one-sixth of its volume, or, in other words, acquires an amount of pressure equal to six atmospheres. At this point the resistance of the valve B (which has been kept closed by an internal pressure equal to five atmospheres) is overcome, and the air escapes through the opening into the reservoir. The admission valve A is then closed, an escape valve D is opened, the water flows out of the pipe, and the valve C being forced back by the compressed air in the reservoir, keeps it there a close prisoner. The position of the valve C in the vertical cylinder has been determined by experiment, and it has been so placed as to secure that the advancing column of water shall exactly reach it, and drive into the reservoir the whole of the compressed air. Sometimes a little of the water, in what we might almost call the eagerness of the chase, gets into the reservoir, just as part

of a besieging force, when it drives back a sortie of the garrison, gets within the gates; but this is remedied by a simple arrangement which enables it to escape through a tube.

At Fourneaux, different machinery is employed. There is there a torrent called Charmaix, from which it would have been easy during part of the year to obtain a fall of 26 *mètres* (85·2 feet), which would compress the atmospheric air to one-sixth of its volume. But its flow is unequal, and the water would be frequently insufficient for the purpose. The Arc flows at the bottom of the valley, and has always enough water, but not a sufficient fall. By cutting a canal parallel to its course, a fall of nearly twenty feet was obtained, but this was not enough. Pumps, therefore, are there employed, moved by hydraulic wheels, and there are two vertical iron columns, communicating with each other, in which water is allowed to rise to a certain height. An oscillating movement is given to the water by means of a piston, and it rises and falls alternately on the two columns. When it rises, it compresses the air and forces it through an outlet valve; when it falls, it creates a vacuum which is filled by air at atmospheric pressure. This is called the system *a tromba*, or pump-system, while that at Bardonnèche is called the system *a colonna*, from the column of water employed. The escape of compressed air in the reservoirs is so small as to be inappreciable. At Bardonnèche they were left charged to the full for twenty-four consecutive days, and the loss was less than  $\frac{1}{5000}$ th part of the whole; nor was it possible to discover any escape from the conduit pipe by carrying a light along it for a distance of more than two thousand yards. And hitherto all the complicated operations have been carried on without any serious accident. Once, indeed, at an early period, the pipe which conveyed the water to grapple with its antagonist the air, burst, and a small deluge was the consequence; and on another the same thing occurred to two of the tubes filled with compressed air, which exploded with the noise of artillery. But these are trifles; and there is perhaps no undertaking of any magnitude where the feeling of security is more profound than that which is inspired by a visit to this gigantic work.

Little need be said of the conduit pipe itself. We have already described how it is formed of jointed sections, and we

need only add that each extremity or nozzle at the point of junction is protected by an inner collar of caoutchouc, and that the pipe does not rest immediately upon the pillars of masonry, but upon short red cylindrical tubes exactly like drainage tiles placed on the top of these, the object being to give play to the changes that take place in the diameter of the pipe as dilatation or contraction is produced by heat or cold in the surrounding atmosphere. Let us now follow the conduit pipe as it climbs up the mountain side and plunges into the yawning throat of the tunnel where the compressed air which it conveys has to do its work. The inclined plane which we have already mentioned is self-acting, and is used for the purpose of bringing up the materials required, and especially the large stones employed in casing the tunnel with solid masonry. The wagons that ascend and descend are large iron boxes of a *kangaroo* shape, the two front wheels being much smaller than those behind—an arrangement which enables the load to keep an horizontal position during its steep journey up the side of the mountain. In a yard that surrounds the workshop at the foot of the incline may be seen two large blocks of stone riddled through and honeycombed with holes. These are pieces of rock on which experiments with the perforating machines were made, and they look exactly as if they had been bored like wood with large gimlets.

On a platform beside the entrance formed by scarping the rock there are workshops and a forge like that of a blacksmith, where the business of preparing and sharpening the perforating rods or 'needles' is carried on. We saw large bundles of these lying on the ground, and they looked exactly like alpen-stocks—shorter, indeed, than those well-known walking-poles, but hardly thicker, with the exception of such as are employed in drilling the central holes, as will be explained hereafter. They are made of tempered steel, and the points, or rather extremities, are about two inches in width, with a twist like that of an adze. Swarthy men were actively employed in putting the ends of their needles into the fire and hammering them when red-hot upon the anvil, for the extremely hard nature of the rock they have to attack makes it necessary to sharpen them continually.

The arch of the tunnel is nearly a semicircle. It is 25 feet  $3\frac{1}{2}$  inches wide at the base, 26 feet  $2\frac{3}{4}$  inches wide at the broadest part, and 24 feet 7 inches high. At Bardonnèche, however, the height has been increased  $11\frac{3}{4}$  inches. So much of the northern end as is finished is cased throughout with stone, but at the southern end the sides only are of stone and the vaulting is brick. Two lines of rails are laid down, and lead to the advance gallery where the excavation is going on in the manner we will now describe.

An iron frame containing the perforating needles moves along the rails and confronts the rock which is to be attacked in the gallery, which is not so large as the actual tunnel when finished, for it is found more convenient to enlarge by ordinary tools the space after the holes have been bored and the blasting with gunpowder has taken place. So that, in fact, as the excavation advances, the tunnel may be compared to a reversed telescope, of which the narrow end is the gallery in which the perforating machines operate. The advanced galleries in the two sections of the tunnel are, however, worked at different levels. That on the Bardonnèche side is on a level with the floor, while that on the Modane side is at the top, close to the roof. We are not aware of the reason of this difference, but it may be that, as the Bardonnèche end was begun first, it has been there so continued, while subsequent experience may have shown that, on the Modane side at all events, it was more convenient to adopt the higher level. The entrance to each gallery is closed by two large moveable gates or doors which turn on pivots, and behind which the workmen take refuge from the shower of stones that follows the explosion of the mines. The iron frame called *l'affusto* is armed with nine or ten perforating machines, like the bow of an ancient trireme from which the *rostra* projected, and they are arranged in a circular form, but so that the greatest number of holes can be bored in the centre of the opposing mass of rock. To each of these are attached flexible tubes, the one containing the compressed air which impels forward the striking rods or needles, and the other water, which is injected into the holes as they are bored. The machines consist of two parts; the one a cylinder for propelling, by means of a piston, the boring needle against the rock, and the other a rotary

engine for working the valve of the striking cylinder and turning the needle on its axis at each successive stroke. It is impossible to describe these machines in detail without reference to a diagram, for, as may well be supposed, their mechanism is exceedingly complex. And owing to the severe work they have to perform, they are constantly getting out of order, and require repair. M. Sommeiller says in his report that 'there is not in any manufactory a self-acting machine composed of such multiplied and delicate organs with so many continuous and intermittent movements, placed in conditions so difficult, and which is subject to so many causes of destruction as these perforators.' It is calculated that before the tunnel is finished two thousand of them will have been used up. The great object was to make them light and portable, and this, of course, increased their fragility. To bore eight holes of the requisite depth, the piston rod gives 57,600 blows, and the cylinder performs the same number of revolutions! The action of each machine is independent of the others, so that if one of them is broken or gets out of order, the action of the rest is not delayed; and it often happens that where the face of the rock opposite to some of them is softer than that which is opposite the others, or they are in a better condition for working, they will drill double the number of holes in the same time. The rock on the south or Italian side, 'so far as the perforator is interested,' says M. Sommeiller, 'is very refractory (*molto ribelle*).' The stratification there is extremely irregular, and the surface of the front of the advanced gallery at the point of attack is all streaked with veins of quartz in every possible direction, which frequently turn aside the boring needle and disable them. On the north side, the rock is even still harder, but it is more homogeneous and is more easily worked. The perforators act at different angles, so as to pierce the rock in all directions, and when the proper number of holes have been bored, the iron frame is pushed back, and the large centre holes are charged with gunpowder, and the mine is fired. This makes a large cavity in the rock, which is called the breach, and the smaller surrounding holes are then charged and fired in a similar manner. At the same time a strong jet of compressed air is thrown into the advanced gallery, which scatters the smoke and supplies air for respi-

ration. Wagons are next pushed forward and filled with the fragments of rock and broken stone, which are conveyed to the mouth of the tunnel and tilted down the side of the mountain.

After each attack a fresh relay of workmen is brought in, and the same operation is repeated night and day. We were told on the spot that the only holiday in the year is Easter Sunday. And so the siege of the rock goes on continually, at a varying rate of progress, which on the northern side at the present time is a daily advance of about two *mètres* or 2·18 yards. After the gallery has been cleared of the *débris*, it is enlarged to the proper size of the tunnel by workmen using their ordinary tools, and then the sides and roof are cased with masonry, and the tunnel is up to that point complete.

One of the objections urged against the use of compressed air as a motive force was, that, as the elasticity of a given volume varies inversely as the space it occupies, if it were conveyed a long distance it would lose so much of its tension or elasticity as to be unavailable for any practical purpose. But here, as so often has been the case, theory was confuted by fact. It will be remembered that the same kind of objection was urged against the project of submarine telegraphs, and it was said that the electric current would lose its force and *die along the road*. It has been found that the loss of pressure at the ends of the conduit pipe where the air is applied, as compared with the pressure in the reservoir, is only one-sixtieth of the whole; and M. Sommeiller calculates that at the centre of the tunnel, a distance of 3·7966 miles from the reservoir, he will be able easily to apply a pressure or force of six atmospheres. Again, another objection. By compression caloric is disengaged, and it was thought that the air discharged in the gallery for the purpose of ventilation would be too hot to breathe. But as the air when it is emitted from the pipe immediately expands, it absorbs the same quantity of caloric which it had discharged at the moment of emission, so that the one effect neutralises the other; and M. Sommeiller refers with pardonable pride to the visits of ladies, '*delicatissime signore*,' and amongst others the Princess Mary of Savoy, who stood at the extremity of the gallery while the perforators were at work, and did not suffer the slightest inconvenience



from the state of the air. The whole of the works are lighted with gas conducted in iron pipes along the ground, and in the advanced gallery thirty or forty lights are kept constantly burning, some of gas and some of oil : so that which was prophesied as one of the greatest difficulties of the undertaking, an abundant supply of fresh air, is shown to be the easiest part of it.

In the middle of the tunnel line beneath the rails there is made contemporaneously with the excavation a covered way like a drain or sewer, in which are laid the pipes for gas and water, and it serves also as a passage by which the workmen employed at the advanced gallery could effect their escape in case of a fall of rock from the roof, or any other accident which might block up the tunnel itself. And by it the drainage is effected of the water that filters from the rock, which must be considerable, if we may judge by the quantity of large stalactites which may be seen hanging from the roof.

One of the most important points to attend to is the accurate direction of the axis of the gallery, which is indispensable to prevent the two simultaneous excavations not meeting at last in the centre. This is accomplished by means of an observatory at each end perched aloft on the opposite side of the valley, not unlike a summer-house, to which a steep zigzag path ascends, and from which the spectator looks into the cavity of the tunnel, where lights are always kept burning to guide the eye in the right direction. It is easy by proper instruments to determine whether or not any deflection from a straight line has occurred, and the tests are applied about once in every three months ; but hitherto no error has been detected.

We have frequently spoken of the two mouths of the tunnel, such as they appear on the mountain sides at Fourneaux and Bardonnèche. But it is not intended, as might at first be supposed, that the railway from the two valleys shall enter either of these mouths. Indeed, a moment's reflection will show that this is impossible. For the direction of the railway as it approaches the tunnel will be at right angles with its axis, and it would therefore require a large space by the side and in front of the mouth to give room for a curve sufficiently flat for safety. Two subsidiary tunnels will be formed at

each extremity, which will enter the great tunnel on a curve at some little distance from the actual mouth. The valley of the Arc widens considerably above Modane, and the railway will describe a majestic sweep as it curves with an ascending gradient towards the mountain which is to engulf it. It is obvious that much expense of construction might be saved if, instead of making this grand curve across the valley, the line were to shunt ; by which means the train would be brought to a stand-still at a point beyond Modane, and the locomotive with its train would take a fresh start in a line diagonally crossing the valley. But a shunt is always awkward and involves delay, and we have not heard that it was ever seriously contemplated.

The length of the tunnel already finished is a little more than two miles and a half. This leaves about five miles and eight chains yet to be excavated, and at the rate of progress which the work is now making, it ought, unless some unexpected accident occur, to be completed in four years and seven months from the present time. It would be too much to predict with certainty that this expectation will be realised. It may be, indeed, that unknown difficulties will mar the enterprise, for it cannot be denied that these will increase in a certain ratio as the work advances. But it must be borne in mind that, as each section of the tunnel embraces only half of the entire length, the question is not whether the mechanical apparatus is fitted to deal with seven miles and a half of the interior of the mountain, but with just half of that distance. Now, subtracting 2,000 *mètres* (which is something less than the advance made at each extremity) from 6,110 *mètres*, which is half of the entire length, there are left only 4,110 *mètres*, or 2 miles 983 yards, to test the powers of the compressed air and the perforating machines. This does not seem a very formidable distance, and, judging from the experience of the past, we think that M. Sommeiller and his colleagues are well justified in looking forward hopefully to the result. At all events *absit omen* ;—we will not dwell on the possibilities of failure. Let us rather fancy the moment arrived when each section of the tunnel has been pushed forward so far that the blows of the perforating rods on the opposite sides of the last interval of rock can be heard

together, as if each were the echo of the other ; one of them darts forward into the empty space formed by the excavation of the meeting gallery—the holes are filled with powder—the mine is fired—and when the explosion has taken place, and the smoke has cleared away, there is no longer a barrier to overcome, but the passage from France to Italy is open without obstruction from end to end ! Then will have been accomplished an enterprise which, to use the words of M. Menabrea, when addressing the Italian Chamber on the 4th of March, 1863, ‘will be for the glory of Italy and the greatest benefit to all her population.’ And not Italy alone. The whole of Europe has an interest in the success of the tunnel through which will flow the stream of traffic from Germany and France. A few years ago the pass of the Mont Cenis glittered with the bayonets and resounded with the tramp of a French army marching on its way to rescue fair Italy from the grasp of the foreigner. Now a more peaceful conquest is going on over the obstacles which Nature has imposed, and the Alps themselves are yielding to the potent spell which science and art together are able to evoke. It would be difficult to exaggerate the importance of the result ; and if it is achieved, the Alpine tunnel will be one of the blessings of humanity, and exist for ages an imperishable monument of patient industry and engineering skill.

*HISTORY OF THE HUDSON'S BAY COMPANY.*

'Good Words,' May, 1869.

A TERRITORY half as large as Europe stretches to the north and west of Canada, from the coast of Labrador, on the east, to the Rocky Mountains, on the south-west, and touching the Arctic circle on the north, reaches as far as the boundary line in the forty-ninth parallel of north latitude between British North America and the United States on the south. It embraces within its sweep Hudson's Strait, Hudson's Bay, and James's Bay—an expanse of waters equal to the area of the Mediterranean. From the south-west extremity, an irregular line, trending towards the north-east, divides it from that part of the British dominions which is generally known as the Indian territory. This contains the Great Bear Lake, the Great Slave Lake, and Athabasca Lake; the Coppermine, the Mackenzie, and the Great Fish rivers; and through it, on the western side, runs the mighty range of the Rocky Mountains, which extend from the Arctic Sea to the Gulf of Mexico, and divide the Indian territory from British Columbia. A ridge of table-land running south-west from the coast of Labrador to the source of the Ottawa River, and forming the watershed of the rivers which on the one side fall into the St. Lawrence, and on the other into the Hudson's Bay, may be considered as the south-eastern limit of the territory, although neither on the west nor on the south-east has its boundary been ever accurately traced or defined. The whole of this vast region—by a very indefinite description, but under the name of Rupert's Land—was granted, by Royal Charter in 1670, by Charles II., to 'the Governor and Company of Adventurers of England trading into Hudson's Bay,' familiarly called the Hudson's Bay Company, of whose history and policy I purpose to give some account in the following pages. But I

will first endeavour to describe the natural features of the country itself, of which little more is generally known in England than that it produces the furs which are so largely used as articles of clothing, luxury, and ornament.

It is only on the southern part of the territory that cultivation is possible. This is owing to the rigour of the climate and the nature of the soil. The country to the north of the Saskatchewan River, Lake Winnipeg, and Lake Superior, has been described as a region of rivers, swamps, treeless prairies, and barren hills and hollows, 'tossed together in a wave-like form, as if the ocean had been suddenly petrified while heaving its huge billows in a tumultuous swell.' In the winter season almost the only means of subsistence in this dreary region is frozen fish. By far the greatest portion seems destined for ever to remain a sterile wilderness, tenanted by animals whose thick furs enable them to resist the cold, and roamed over by hunters, who, with guns and traps in their hands, pursue the bear, the beaver, the wolf, the fox, the martin, and the mink, and

Kill them up

In their assigned and native dwelling-place.

Hudson's Bay—which was discovered by John Hudson, in 1610—may be considered as the great basin into which the rivers of Rupert's Land flow. The largest of the inland waters is Lake Winnipeg, on the south. It is 300 miles long, and in some parts 50 miles broad, distant about 50 miles from the boundary line that divides Rupert's Land from the United States, and 500 miles from Lake Superior. The next two largest lakes are Lake Manitobah (the 'Evil Spirit' lake) and Lake Winnipegosis, to the west of Lake Superior, and together nearly of the same length. The Red River, which rises in the Otter-tail lake, in Minnesota, flows northwards into Lake Winnipeg; and to the north-east of it is the Winnipeg River, another affluent of the lake, which connects it with the Lake of the Woods, and this again is connected by Rainy River, with Rainy Lake, through which runs the boundary line of the forty-ninth parallel of latitude. The country lying between Lake Winnipeg and the Red River on the east—the south branch of the Saskatchewan on the west—the main

stream of that river on the north—and the boundary line on the south—forms an irregular parallelogram, which is computed to contain 80,000 square miles—an area equal to that of Great Britain. And within this area there are upwards of 11,000,000 acres of arable land, and an equal quantity fit for pasture.

It is on the banks of the Red River that the Red River or Selkirk Settlement, of which I shall speak hereafter, was formed. The soil is alluvial, and produces crops of wheat, but in the immediate neighbourhood most of the forests that formerly existed have been destroyed by fire, but there is still a large quantity of wood, especially on the east side. The timber, however, is nowhere of great size. It has been said, indeed, that there is not a tree of any description five feet in diameter in the Company's territory east of the Rocky Mountains, and the largest pines there seldom exceed three feet in diameter. But yet, on the other hand, one of the witnesses who was examined before a Committee of the House of Commons, in 1857, declared that in the vast area between the north branch of the Saskatchewan River and the Athabasca Lake, in the north, there are trees, 'vast and splendid in their growth,' which would bear comparison with 'the magnificent trees round Kensington Park.' There are, however, very few trees if any in the plains, and the buffalo hunters are obliged to carry wood with them for lighting fires. Between the Red River and Rainy Lake, to the east, there is an impracticable country full of deep morasses, of which it has been asserted that they never thaw, for below the moist surface there is a stratum of everlasting ground ice. But this, I think, must be a mistake, for the so-called permanent 'frozen district' begins at a higher latitude. Along the banks of the Red River for about the width of a mile there is a belt of land which has more or less been brought into cultivation, but beyond this the soil is extremely thin, and some idea of the nature of the country may be formed from the evidence of Sir George Simpson, who was for many years Governor of the Hudson's Bay Company, and who stated before the Committee of the House of Commons that he had paddled over some of the roofs of the houses there in his canoe. These were certainly 'lacustrine' habitations of a modern period.

Owing to the difficulties of the country the territory has not yet been fully explored, and actual knowledge of its features has been chiefly confined to the region that lies to the west of Red River and south of the northern fork of the Saskatchewan River; the two forks meeting at a place called Nepowewin or *Fort à la Corne*, and thence flowing in a united stream to Lake Winnipeg, which they enter near its head on the north-west side. An expedition to explore the country watered by the Assiniboine and the Saskatchewan was sent out by the Canadian Government in 1857, and its very interesting reports are to be found in a Blue Book published by order of the House of Commons in 1860.

The Assiniboine River flowing from the north, turns to the east five miles above Fort Ellice, about 360 miles from Fort Garry. Fort Pelly lies upon it to the north. For the first fifteen miles of its course the land of the valley is light and sandy clay, in many places pure sand covered with a low growing creeper. The grass is very short and scanty, and the aspens, which are the only trees, are small. Farther on the country improves for about sixty miles, but it abounds with marshes, swamps, and ponds, round which grow willow and aspen trees. From thence to Fort Pelly the country is densely covered with aspens and willows, but there are open spaces here and there, where, says Mr. Dickinson, one of the officers employed on the Canadian expedition, 'the wonderful luxuriance of the vegetation is beyond description. Lakes and ponds are very numerous throughout, encircled with large aspens and balsam poplars.' To the east of Fort Pelly lies the Swan River, which flows in a north-easterly course into Lake Winnipegosis. The valley through which it runs is described as containing all the requirements necessary for a settlement, and the timber is plentiful and of a good size. The land for the most part is sandy loam, and is traversed by numerous creeks.

The Qu'Appelle, or Calling River, flows from the west, and joins the Assiniboine five miles above Fort Ellice. It rises near the south branch of the Saskatchewan, at a place called the Elbow; and in the long, deep, and narrow valley through which it runs towards the east, there are eight lakes, of an aggregate length of seventy miles. A scheme has been

proposed to send the waters of the south branch of the Saskatchewan down the valley into the Assiniboine, and thence into the Red River, and past Fort Garry into Lake Winnipeg. This would be effected by constructing a dam across the deep and narrow ravine through which the south branch flows, just below the point where the Qu'Appelle valley joins it. The waters of the Saskatchewan would thus be turned into the valley, and enable steamers to navigate them for a distance exceeding 600 miles between the Elbow and Fort Garry. And the Indians who hunt in that district assured Professor Hind, who had charge of the Canadian exploring expedition, that between the Elbow and the western extremity of the south branch, near the foot of the Rocky Mountains, where the Bow River flows into it, there are no rapids or impediments of any description, except shifting mud and sand bars. I can give no opinion as to the feasibility of this plan, the object of which is of course to facilitate the formation of a highway between Canada and the Pacific; but it is right to state that Mr. Dawson, in his report dated Toronto, Feb. 22, 1859, mentions one objection to it, which, if well founded, is conclusive. He says, 'The plains of Red River would be converted into a sea, and the settlement swept into Lake Winnipeg.' Professor Hind combats this idea as chimerical; but I am unable to decide which of the two disputants is right. The possibility of such a catastrophe is perhaps sufficient to prevent the scheme from being attempted.

The immediate banks of the Saskatchewan are of a poor, sandy, and gravelly soil; but on the prairie plateau, three miles from the river, the rich soil commences, and in some places extends for a breadth of sixty miles. The Touchwood range of hills lies to the east of the Elbow and north of the Qu'Appelle River, and embraces an area of more than a million acres. 'For beauty of scenery,' says Professor Hind, 'richness of soil, and adaptation for settlement, this is by far the most attractive area west of the Assiniboine.'

Fort Garry, the head-quarters of the settlement, lies a short distance to the south of Lake Winnipeg, at the point where the Assiniboine falls into the Red River. The Assiniboine valley on the north side, and south of a range of hills called the Big Ridge, comprises an area exceeding half a million of



acres, with a soil which has been described as of 'remarkable excellence.' The south side of the Assiniboine is covered by a vast forest, varying in width from three to twenty-five miles, and below this there are wide open prairies, where herds of buffaloes range.

The grasshoppers are the pest of the region. Professor Hind says, 'At times they would cast a shadow over the prairie; and for several hours one day the sky, from the horizon to an altitude of thirty degrees, acquired an indescribably brilliant ash-white tint, and seemed faintly luminous as the semi-transparent wings of countless millions of grasshoppers, towards the north and north-east, reflected the light of the sun.' Another traveller says, 'Lying on my back and looking upwards as near to the sun as the light would permit, I saw the sky continually changing colour from blue to silver white, ash-grey, and lead colour, according to the numbers in the passing clouds of insects. Opposite to the sun, the prevailing hue was a silver white, perceptibly flashing. On one occasion the whole heavens, towards the south, east, and west, appeared to radiate a soft, grey, tinted light, with a quivering motion; and the day being calm, the hum produced by the vibrations of so many millions of wings was quite indescribable, and more resembled the noise popularly termed "a ringing in one's ears," than any other sound. The aspect of the heavens during the greatest flight we observed was singularly striking. It produced a feeling of uneasiness, amazement, and awe in our minds, as if some terrible unforeseen calamity were about to happen. It recalled more vividly than words could express the devastating ravages of the Egyptian scourges, as it seemed to bring us face to face with one of the most striking and wonderful exhibitions of Almighty power in the creation and sustenance of this infinite army of insects.'

The distance between Canada and the Red River Settlement by the canoe route is more than 500 miles, and 300 in an air line. When I say Canada, I mean starting from Lake Superior, which is generally assumed to be its south-west frontier. But it is only fair to state that the Canadians do not admit this, and lay claim to territory indefinitely to the west of the lake. The fact is, that the Western boundary of

Canada has never been accurately defined.<sup>1</sup> It was ceded to Great Britain by France in 1763, but the exact extent of the territory was not determined ; and there is a certain portion of 'debatable land,' between Lake Superior and the possessions of the Hudson's Bay Company, which, as I shall show hereafter, has caused disputes and some tragical episodes in the history of the Company.

There are two routes between Lake Superior and the Red River Settlement. The lower one, from the western side of the lake, proceeds up the Pigeon River, along which runs the boundary line between British America and the United States, and then through a long series of swamps and ponds and lakes connected by intervening rivers, to Rainy Lake. But many of the rapids are so furious that canoes cannot live in them, and they must therefore be dragged or carried along the banks for considerable distances, which are known by the name of Portages. Rainy Lake is connected by Rainy River with the Lake of the Woods, and the latter lake by the Winnipeg River with Lake Winnipeg, into which the Red River flows, as I have already mentioned. It would be shorter to cross direct by land from the Lake of the Woods to Fort Garry ; but it is a most difficult, if not impracticable country, which has never yet, I believe, been fully explored. Professor Hind, writing in 1859, says, 'Up to the date of my departure from Red River last year, no communication had been effected in summer time between the settlements and the Lake of the Woods, except in canoes, although every effort was made to pass through the formidable bogs and swamps which intervene. This important link in the proposed line of route is still a *terra incognita* for a short distance.'

The other, called the Kaministiquia route, is sixty-three miles longer than that by the Pigeon River, and lies more to the north. It starts from Fort William on Lake Superior, and proceeds up the Dog River to Dog Lake ; then up the Kaministiquia River to the Mille Lacs, or Lake of the Thousand Isles, after crossing which, it traverses a rocky country, through a series of winding waters and grassy swamps, until

<sup>1</sup> In a trial for murder at Quebec, on the meridian 88° 50' west of London. in 1818, the court held that the western boundary of Upper Canada was a line This would pass through Lake Superior to the east of Fort William.

it reaches the Rivière la Seine, which flows into the Rainy Lake.

It is difficult to ascertain accurately the number of the Indian population in Rupert's Land. It has been estimated at about 43,000 souls ; but this is said to be one-fourth too large. Perhaps we may assume them to be between 30,000 and 40,000. They consist of different tribes—the Ojibways, the Crees, the Blackfeet, the Sioux (pronounced *Soos*), and the Assiniboines. The animals which are most valuable to them are the buffalo, the horse, and the dog. The Great Slave Lake is the northern limit of the buffaloes : vast herds of them occupy certain well-known and determined ranges, along which they emigrate at different seasons in search of food. It is said that the sound of their approach can be recognised, 'by applying the ear to a badger hole,' fully twenty miles before they arrive, if the weather be calm. Amongst them are often found blind buffaloes, whose eyes have been destroyed by prairie fires ; but they are more wary and difficult to approach than those possessing sight. The Indians subsist on the flesh of the buffalo, and from its skin and sinews they make their tents, clothing, saddles, bow-strings, and dog-harness. Tea with them is becoming a luxury, and the taste for it ought, by every means, to be encouraged as a substitute for spirits. Their Heaven is the Happy Hunting Grounds, 'where buffaloes range as thick as rain drops in summer.'

The Church Missionary Society undertook a mission to Rupert's Land in 1822, and in 1857 they had there thirteen stations. The number of clergymen, including the bishop and the chaplain (whose salaries are partly paid by the Company), in that year amounted to seventy ; and it was estimated that 8,000 or 10,000 Indians were under Christian instruction. A free passage is given by the Company to the missionaries ; and, to use the expression of the secretary of the society, 'they have countenanced the labours of the missionaries so far as they have not interfered with their trading occupations.' The bishop, Dr. Anderson, in his evidence before the House of Commons, in 1857, said that the missionaries were very devoted and faithful men, and were doing a vast amount of good. Besides these, there were two native Indian clergymen

and Roman Catholic priests. Sir George Back stated in his evidence before the committee of the House of Commons, in 1857, that when he was in the territory, he saw nothing but the utmost kindness to the Indians and fairness in dealing ; he never knew an Indian turned away without his wants being supplied, whether he had furs to give in return or not : and he saw strong instances of great benevolence on the part of the Hudson's Bay officers. One fact is very creditable to the poor Indians. I have been assured on the best authority that in courts of justice they may always be relied upon to speak the truth. Perhaps this arises not so much from conscientious motives—for the moral principle must be very weak in untutored savages—as from the awe inspired by an idea of the superior intelligence of the white man, and the fear that as he knows everything, he will be able to confound them if they venture to tell a lie. Many of the Christianised Indians have family worship night and morning, and are quick in learning to read and write. The efforts of the Company to prevent the introduction of that fatal curse which generally follows in the wake of Europeans—I mean the use of spirits—deserves every praise. One of the rules of the fur trade is 'that the Indians be treated with kindness and indulgence, and mild and conciliatory means resorted to, to encourage industry, repress vice, and inculcate morality ; and that the use of spirituous liquors be gradually discountenanced in those very few districts in which it is yet indispensable.' It is stated in a letter, addressed by Sir John Pelly, the then governor of the Company, to Earl Grey, the Colonial Secretary, in 1850, that the average quantity of spirits annually imported by the Company into the whole of the territories at that time under their control, to the east and west of the Rocky Mountains—if distributed equally amongst the persons employed in their service—would amount to less than two table-spoonfuls daily to each man, and this included the supply furnished to the troops stationed at Red River. I need hardly add that the use of spirits as an article of barter for furs is most strictly forbidden.

But it is of course very difficult along such a line of frontier, divided from the United States by only an imaginary boundary, to prevent altogether the introduction of spirits.

An illicit traffic in furs is carried on between the Red River Settlement and Pembina, which is within the American territory; and the article of exchange chiefly used is spirits, of which the Indians, like all savages, are passionately fond.<sup>1</sup> There can be little doubt that if the trade in furs were thrown open the fire-water, like a destroying angel, would exterminate the race of the Red Man.

Such is the territory which was granted in the year of grace, 1670, by Charles II. to the Hudson's Bay Company.

The charter of incorporation recites, that whereas 'our dear and entirely beloved cousin' Prince Rupert, Count Palatine of the Rhine, Christopher Duke of Albemarle, and other persons therein named, had at their own great costs and charges undertaken an expedition for Hudson's Bay, in the north-west part of America, for the discovery of a new passage into the South Sea, and for the finding some trade for 'furs, minerals, and other considerable commodities,' the king granted that they should be a body corporate and politic, by the name of 'the Governor and Company of Adventurers of England trading into Hudson's Bay,' and have a common seal. It then made provision for the government of the Company, and gave and granted to it 'the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatsoever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts, and confines of the seas, bays, lakes, rivers, creeks, and sounds aforesaid, that are not actually possessed or granted to any of our subjects, or possessed by the subjects of any other Christian prince or state, with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes,' within the said limits, 'and all mines royal, as well discovered as not discovered, of gold, silver, gems, and precious stones.' It next declared that the said land should thenceforth be reckoned and computed as one of our plantations or colonies in America, called 'Rupert's Land,' and constituted the governor and Company and their successors 'the true and absolute lords

<sup>1</sup> It is a curious circumstance, however, that the numerous tribe of the Chipeway Indians in the north are said not to drink spirits, and they always refuse them when offered.

and proprietors of the same territory,<sup>1</sup> saving always the faith, allegiance, and sovereign dominion due to us, our heirs and successors, as of our manor of East Greenwich, in our county of Kent, in free and common socage . . . . yielding and paying to us, our heirs and successors for the same two elks and two black beavers, wheresoever, and as often as we, our heirs and successors, shall happen to enter into the said countries, territories, and regions hereby granted.' Hitherto the condition has not been found onerous, for no part of the territory has yet been honoured by a royal visit, nor is it likely to be so ; which is perhaps fortunate, for possibly the *elks* might not be forthcoming. The king then empowered the governor and Company to make laws and ordinances for good government, to impose pains and penalties and punishments for the breach of them, 'so always as the said laws, constitutions, orders and ordinances, fines and americiaments be reasonable, and not contrary or repugnant, but as near as may be agreeable to the laws, statutes, or customs of this our realm.' The charter next granted that the Company should have 'the whole, entire, and only trade' to and from the territory, and to and from 'all havens, bays, creeks, rivers, lakes, and seas into which they shall find entrance or passage by water or land' out of it ; and that no part of it should be visited, frequented, or haunted by any of the other subjects of the Crown 'contrary to the true meaning of these presents, *and by virtue of our prerogative royal, which we will not have in that behalf argued or brought in question.*'

The king then prohibited his other subjects from visiting or trading with the territory, unless by licence from the governor and Company in writing under their common seal, under pain of his royal indignation, and forfeiture of such goods and merchandise brought into England or any dominions of the Crown, and the ships conveying them. The charter also empowered the governor and company to appoint governors and councils of the plantations, forts, factories,

<sup>1</sup> On a case submitted in 1814 to Sir Samuel Romilly, Mr. Scarlett, Mr. Holroyd, Mr. Cruise, and Mr. Bell, those eminent lawyers said : 'We are of opinion that the grant of the soil contained in the charter is good, and that it will include all the countries the

waters of which flow into Hudson's Bay.' It is, however, not altogether easy to determine which waters in their course flow towards Hudson's Bay and which towards the Arctic Sea, as several of the lakes communicate with each other, and have different outlets.

colonies, and places of trade within the territory, who were to have power 'to judge all persons belonging to the said governor and Company, or that shall live under them, in all causes, whether civil or criminal, according to the laws of this kingdom, and to execute justice accordingly.' And in case any crime should be committed in places 'where judicature cannot be executed for want of a governor and councils there,' then the offenders were to be sent to such other plantation, factory, or fort where there should be a governor and council, or into England, 'as shall be thought most convenient.' The governor and Company were also empowered to make peace or war with any prince or people whatsoever 'that are not Christians,' to erect castles, forts, garrisons, colonies, or plantations within the limits of their territory, and to seize and send to England any of the king's subjects who might sail to Hudson's Bay or inhabit any of the countries thereby granted without the leave of the Company. And in case any person convicted of an offence by a president and council in the territory should appeal from the sentence, it was to be lawful for the president and council to seize him and carry him home prisoner to England to the said governor and Company, 'there to receive such condign punishment as his cause shall require, and the law of the nation shall allow of.'

Notwithstanding the stern command of King Charles, that he would not have his prerogative to grant the right of exclusive trade to the Company 'argued or brought in question,' the impertinent curiosity of lawyers has scanned the charter, and grave doubts have been expressed whether the Crown had the power to confer on any of its subjects a monopoly of trade. The same thing had been done in the case of the East India Company, which was incorporated in the year 1600 by a charter of Queen Elizabeth, and when the question was raised at the end of the reign of Charles II., in the case of the East India Company *v.* Sandys, in the Court of Queen's Bench, it was held that the grant was good in law. But the reasoning of the judges, headed by Chief Justice Jefferies, who, according to Roger North, 'espoused the matter with great fury,' is more ingenious than sound; and few lawyers at the present day would be likely to dissent

from the opinion of the late Lord Campbell, who says (Life of Lord Jefferies, 'Lives of the Lord Chancellors,' vol. iii. p. 581) that the doctrine is 'contrary to our notions on the subject.' I will not argue the question here, and it is really of no practical importance, for the proprietary rights and powers of government conferred by the charter on the Company are unassailable, and it is not likely that a case will occur in which they will think it desirable to challenge the opinion of a court of law upon the subject.<sup>1</sup> As owners of the territory and lords of the soil, they are entitled to treat all intruders as trespassers.

The Company adopted the appropriate motto *Pro pelle cutem*, 'Skin for skin,' which happily and wittily expresses the nature of their trade.

The Canadians assert that the territory thus granted by King Charles, in 1670, actually then belonged to the Crown of France, and had been previously granted by charter in 1623, by Louis XIII., to a company called *La Campagnie de Nouvelle France*, 'New France' being one of the names by which Canada was then known. This charter is said to exist in the archives of the Canadian government, but I have not seen a copy of it, nor am I aware that it has ever been published.

It has been also asserted that by the Treaty of Utrecht in 1713, a portion only of the shores of the Hudson's Bay was ceded to England, and that stipulations were made for the protection of the Company of New France. But on referring to the treaty, it will be found that this is a mistake, and that there is in it the fullest recognition of the title of the Crown of England to the *whole* of the territory in question. As the matter is of some importance, I will quote the words of the treaty in the original Latin :—

Dictus Rex Christianissimus sinum et fretum de Hudson una cum omnibus terris, maribus, oris maritimis, fluviis, locisque, in dicto sinu et freto sitis, *et ad eadem spectantibus*, nullis sive terræ sive maris spatiis exceptis, quæ subditis Galliæ in præsentî possessa sunt, regno et reginæ Magnæ Britanniæ, pleno jure in perpetuum possidenda, *restituât*.

<sup>1</sup> In his evidence before the committee of the House of Commons, in 1857, Mr. Ellice said : 'I conceive that charter to give the rights expressed in it : some of them may be doubtful. I ought to be able to express a tolerably

fair opinion upon this subject, since I have taken the opinion of every lawyer against the Company when I was opposed to them, and for the Company since I have been connected with them.'



And it was provided that the Company of New France, or *Societas Quebecensis*, as it was called, should evacuate the territory with all their property. Moreover, the king of France agreed to indemnify the Hudson's Bay Company for all damages they had sustained from hostile incursions and depredations of the French—*vigente pace*—before the war. So that there could not be a clearer acknowledgment that France had no claim except that which recent conquest had given her, for she undertook to 'restore' whatever part of the territory she had seized, and to make good all losses sustained by the Company at the hands of French subjects while the two were at peace.<sup>1</sup>

As might naturally be expected, the Company at first confined their operations to the shores of Hudson's Bay and the northern parts of the territory; and it seems that they did not actually occupy the valley of the Saskatchewan until the latter end of the last century, nor the valley of the Assiniboine and the Red River until the beginning of the present. In the meantime, they gradually pushed their forts up the rivers—such as the Churchill, the Nelson, the Albany, and the Moose—that flow into Hudson's Bay. But in the middle of the last century they possessed only five or six forts altogether. In 1748 a petition was presented to a committee of the Privy Council, complaining that the Hudson's Bay Company had not effectually or in earnest searched for a new passage into the South Sea, and had obstructed its discovery by others; and that since the date of their charter, they had not taken possession of, nor occupied any of, the lands granted to them, nor made any plantation or settlement except four factories and one small trading-house. The petitioners prayed, therefore, that they might be incorporated 'for finding out the said passage,' and that they might have a grant of all the lands they should discover and settle not already occupied

<sup>1</sup> By the Treaty Commissioners were to be appointed to determine the limits *inter dictum sinum de Hudson et loca ad Gallos spectantia*: but if they were appointed, I do not find that any boundary was ever settled. In 1690 an Act (2 William, and Mary c. 15) was passed for confirming to the Hudson's Bay Company all their rights and privileges;

but the Act was to be in force only for seven years, and thence to the end of the next session of Parliament; and it has been contended, therefore, that when the Act expired the privileges of the Company ceased. But at all events they have been expressly recognised by several subsequent statutes.

and settled by the Hudson's Bay Company, with the right of exclusive trade therein. The petition was referred by the Privy Council to the Attorney-General, Sir Dudley Ryder, and the Solicitor-General, Sir William Murray, afterwards Lord Mansfield, who, having heard counsel on both sides, reported that the charges were 'either not sufficiently supported in point of fact, or in a great measure accounted for from the nature or circumstances of the case.'

In 1749, a committee of the House of Commons was appointed to inquire into the state and condition of the countries adjoining Hudson's Bay, and the trade carried on there; and their report contains some curious matter. It appears from it that the servants of the Company in Rupert's Land were not allowed to converse with the Indians, on pain of being whipped and forfeiting their wages; and one of the witnesses stated that the governor there forbade him to teach an Indian boy, adding that he had a general order from the Company that none of the natives should be instructed. He said that there was no clergyman nor divine worship of any kind in the territory. Lake Winnipeg at this time was called Lake Ouinipique, and the Red River, the Little Ouinipique; and the country there was described as full of beavers. The Indians were said to use no milk from the time they were weaned, and to hate cheese, 'having taken up an opinion that it is dead men's fat.' The Company must have been doing a good trade at this time, for I find that the average value of their exports during the preceding ten years, was about 5,000*l.* a-year, and their yearly sales during the same period averaged 29,000*l.*

But to go on with the history of the Company. At the end of the last century Earl Selkirk, a benevolent young Scotch nobleman, visited the Highlands, which were then a *terra incognita* to tourists, and finding that emigration to the United States was going on to a considerable extent, he thought that it would be desirable to turn the tide into our own colonies. Having matured his plans, he headed a body of settlers, who sailed for Prince Edward's Island, and established themselves there in 1803. The success of the experiment induced him to make a bolder venture, and in 1811 he obtained from the Hudson's Bay Company a grant by deed

of a portion of their territory in the vicinity of the Red River. Here he planted a Settlement of Scotch emigrants, and became a sort of patriarchal governor.

In 1817 he made a treaty with the Chippeway and Cree Indians, in order to extinguish any rights they might claim over the land occupied by the Settlement. The instrument was signed, or rather *marked*, by four chiefs of the tribes, who each scrawled under it the rude figure of an animal; and they thereby ceded to 'our Sovereign Lord the King' a certain tract of country in the Red River, on condition that Lord Selkirk, his heirs and successors, should pay annually to the chiefs and warriors of the two tribes 'one hundred pounds weight of good merchantable tobacco.'

The geological nature of the land of the Settlement is the limestone formation, and the soil is composed of the *débris* of granite and limestone, with a large proportion of decayed vegetable matter. It is extremely fertile, and when well cultivated yields large crops of the finest wheat. But the colony did not prosper. It was too far removed from the operations of commerce, and had no means of market or export except by the difficult and at certain seasons impracticable route of the Nelson River to York Fort on Hudson's Bay. Half of the original settlers abandoned the Red River, as they found that they had no market for their produce. They were scorched by the heat in summer and frozen in the winter, and they more than once took refuge in Pembina. The late Mr. Edward Ellice said in his evidence before the Committee of the House of Commons, 'It was an unwise speculation settling people in a country where they could send no produce to market, where they could be in communication with no neighbouring settlement, and accordingly it has failed.' The Settlement was purchased back from Lord Selkirk or his heirs by the Company in 1834, and since that time it has remained in their possession. It now occupies in a straggling manner about fifty miles of the course of the Assiniboine, and twenty miles of the course of the Red River, and the population may be estimated at about 12,000 souls. Fort Garry is the principal station, or rather there are two forts—an upper and a lower one. The lower fort occupies three or four acres, but the upper one is not quite so large,

and they are both surrounded by stone walls, flanked by towers. In their interesting book, called 'The North-West Passage by Land,' Lord Milton and Dr. Cheadle say :—

From Red River to the Rocky Mountains, along the banks of the Assiniboine and the fertile hills of the Saskatchewan, at least sixty millions of acres of the richest soil lie ready for the farmer when he shall be allowed to enter in and possess it. This glorious country, capable of sustaining an enormous population, lies utterly useless, except for the support of a few Indians, and the enrichment of the shareholders of the Last Great Monopoly.

This last remark is not quite fair, for that part of the territory contributes little or nothing to the exchequer of the Company. as the fur-bearing animals hardly exist there, and no trade is carried on in that region from which the Company derives benefit.

I have mentioned that the Western frontier of Canada has never been authoritatively defined, and on one occasion, in 1818, when a question of jurisdiction was raised in a criminal trial at Toronto, under a commission from Lower Canada, the court directed the jury to return a special verdict, stating that 'they could not see from any evidence before them what were the limits of Upper Canada.' The Chief Justice said, 'I do not know whether from 90° to 100° or 150° forms the western limit of Upper Canada.'

Soon after the cession of Canada by France to England in 1763, traders from Montreal began to push their way towards the west in search of furs. They followed the Pigeon River route from Lake Superior, and in spite of King Charles's charter encroached not only upon the territory but the privileges of the Hudson's Bay Company. In 1784 these traders formed themselves into a Company, and for many years a civil war raged in Rupert's Land between the two rival companies, in which sanguinary battles were fought and many lives were lost. Before long a second Canadian company, called the X. Y. Company, came into the field, and the confusion was worse confounded.

All readers of Washington Irving's 'Astoria' must remember the account which that delightful writer gives of the North-West Company, which, as he says, 'for a time held a lordly sway over the wintry lakes and boundless forests of the Canadas, almost equal to that of the East India Company over the voluptuous climes and magnificent realms of the

Orient.' They had in their employ two thousand persons and the principal partners resided in Montreal, where, as Washington Irving says, they formed a kind of commercial aristocracy living in lordly and hospitable style. Two or three of them used to meet every year at Fort William the superintendents of the trading posts in the wilderness, who came there with a body of retainers, like chieftains of the Highland clans.

The councils were held in great state, for every member felt as if sitting in Parliament, and every retainer and dependent looked up to the assemblage with awe as to the House of Lords. There was a vast deal of solemn deliberation and hard Scottish reasoning, with an occasional swell of pompous declamation. These great and weighty councils were alternated by huge feasts and revels, like some of the old feasts described in Highland castles. The tables in the great banquetting-room groaned under the weight of game of all kinds, of venison from the woods and fish from the lakes, with hunters' delicacies, such as buffaloes' tongues and beavers' tails, and various luxuries from Montreal, all served up by experienced cooks brought for the purpose. There was no stint of generous wine, for it was a hard-drinking period, a time of loyal toasts and bacchanalian songs, and brimming bumpers.

Such was the company of the 'mighty North-Westerns,' at whose board the youthful Washington Irving often sat, and who for many years were a thorn in the side of the Hudson's Bay Company.

The effects of the contest have been described as 'the demoralisation of the Indians; liquor was introduced as a medium of trade throughout; there were riots and breaches of the peace continually taking place, and the country was in a state of great disorganization.'

Sir John Richardson made the following statement to the Committee of the House of Commons in 1857 of what he saw in 1819, when he accompanied Sir John Franklin on his first expedition :—

Landing at York Factory, we found several of the members of the North-West Company prisoners in the fort; they had been captured shortly before we arrived there. One of them, a Mr. Frobisher, escaped with some men and perished; he died for want of food in attempting to make his escape. . . . We found both parties supplying the Indians liberally with spirits. The Indians were spending days in drunkenness at the different posts, and a contest altogether shocking to humanity was carried on.

Lord Selkirk naturally took the side of the Hudson's Bay Company in its contest with the Canadian interlopers, and he became a very active partizan. He treated the North-

West Company as poachers, and warned them by proclamation that they had no right to kill any animals on his land. Scenes of bloodshed were frequent, and in June, 1816, a battle was fought on the Frog Plains, near the Red River, when a wild body of 'North-Westerns,' consisting of half-breeds and Indians, attacked the Settlement, and the governor and twenty of his followers were killed. The whole colony were driven from their homes, and took refuge at Norway House, on the north of Lake Winnipeg. Earl Selkirk was at this time on his way from Montreal, at the head of a motley body of disbanded soldiers—chiefly foreigners—and in retaliation he seized on Fort William, at Lake Superior, which was then the head-quarters of the North-West Company, and arrested the principal partner, Mr. McGillivray, taking possession of all the property. Actions of trespass were brought against him in the Canadian courts by different parties, and verdicts for heavy damages were given. Criminal proceedings were also instituted, and a bill of indictment was preferred against him and his associates. The colony was brought back to the Red River, and soon afterwards Lord Selkirk left the settlement and did not return to it.

Earl Bathurst was at this time (1820) the Colonial Secretary, and being at his wits' end to know how to deal with the belligerents, he availed himself of the shrewd sagacity of the late Mr. Ellice, who had been one of the most influential members of the North-West Company. Under his able management, a union of the two companies was effected on the basis of equality, so far as possible, amongst the respective shareholders.

In 1821, an Act (1 and 2 Geo. IV. c. 66) was passed, authorising the Crown to grant a licence for the exclusive privilege of trading with the Indians in such parts of North America as were not part of the territory granted to the Hudson's Bay Company, or of any of the British 'provinces' in North America, or 'of any lands or territories belonging to the United States of America;' but the licence was not to be given for more than twenty-one years. Under this Act, the Crown, at the end of 1821, granted to the Hudson's Bay Company, and to William and Simon McGillivray and Edward Ellice, who represented the North-West Company, a

licence for the sole exclusive privilege of trading with the Indians for twenty-one years within the above-named limits ; and it provided that they should give security in the penal sum of 5,000*l.*, for ensuring the due execution of criminal process and civil process, where the matter in dispute exceeded 200*l.*, 'by the officers and persons legally empowered to execute such processes' within the territories included in the licence. They were also required to submit, for the royal approval, such rules as might appear to the Crown to be effectual for gradually diminishing, or ultimately preventing, the sale of spirits to the Indians, and for promoting their moral and religious improvement.

The Hudson's Bay Company acquired, by agreement, all the rights and interest of the North-West Company in 1824 ; and it was therefore unnecessary to continue the trading partnership with the Messrs. McGillivray and Mr. Ellice ; but the licence remained in force until 1838, when it was surrendered to the Crown, and a new one was granted to the Hudson's Bay Company alone, for another period of twenty-one years, on similar terms as before.

There was, however, an important proviso added to the new licence, which shows that the Government had in view the possible creation of a colony or colonies in the licensed territory. It was, that nothing therein contained should prevent the establishment, 'within the territories aforesaid, or any of them,' of any colony or province, or annexing any part of them to any existing colony. The proviso, also, for ensuring due execution of civil process was extended to all suits, whatever might be the amount in dispute. This last licence expired in 1859, and has not since been renewed. There seems to have been a general impression that the Company were bound by their licence to send civil and criminal cases that arose in the licensed, as distinguished from the chartered territory, to the courts of Canada for trial. But this is a mistake. There is nothing in either of the licences about the Canadian courts ; and, according to them, process was to be executed by the officers and persons legally empowered within the licensed territories. But, by the Act 43 Geo. III. c. 138, passed in 1803, it was enacted, that all offences committed within any of the Indian territories, or

parts of America not within the limits of Canada or the United States, should be tried as if they had been committed within the provinces of Upper and Lower Canada; and offenders were to be arrested and conveyed to Lower Canada, to be tried there, or in certain circumstances in Upper Canada. Further, by the Act 1 and 2 Geo. IV. c. 138, passed in 1821, civil and criminal jurisdiction over the same region was given to the courts of Upper Canada; and the Crown was empowered to appoint, by commission under the Great Seal, justices of the peace, to hold their courts of record for the trial of civil and criminal cases, 'anything in the charter of the Governor and Company of Merchants and Adventurers of England trading to Hudson's Bay to the contrary notwithstanding.' It seems, therefore, that the Canadian courts, and the Rupert's Land courts, if established by commission under the Great Seal, have concurrent jurisdiction; but I believe that no such courts have been created.

In 1839, the Company took on lease from the Russian Government a strip of coast, on the seaboard of the Pacific, between Fort Simpson and Cross Sound, for which they agreed to pay a rent of 2,000 otters a year; but this was afterwards commuted into a rent in money. Before the treaty between Great Britain and the United States in 1846, which made the forty-ninth parallel of north latitude the boundary between the territories of the two Governments, the Hudson's Bay Company were in occupation of lands south of that line, in what are now the States of Washington and Oregon; and it was expressly provided that their possessory right, as well as that of 'all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory, shall be respected.' And the late well-known American statesman and lawyer, Mr. Daniel Webster, said, in an opinion he gave, that he entertained no doubt that the Company had a vested proprietary right in the lands. The matter was referred to arbitration before a commission, sitting at Washington, and has, I believe, not yet been decided.

In 1849, Vancouver's Island was granted to the Hudson's Bay Company, under certain restrictions and conditions, which I need not detail, but which, to use the language of



Mr. Ellice, 'ensured from the beginning an absolute failure of the whole scheme.' The truth is, that a trading company is wholly unfit to carry out a system of colonisation, and the experiment is not likely to be again attempted.

In 1857, the Select Committee of the House of Commons, to which I have so often referred, was appointed, 'to consider the state of those British possessions in North America which are under the administration of the Hudson's Bay Company, or over which they possessed license to trade.' It consisted of Mr. Labouchere, then Colonial Secretary, Sir John Pakington, Lord John Russell, Mr. Gladstone, Lord Stanley, Mr. Roebuck, Mr. Lowe, and others; and, after examining a great number of witnesses, and obtaining much valuable evidence, they made a short report, in which they said that they considered it essential to 'meet the just and reasonable wishes of Canada, to be enabled to annex such portion of the land in her neighbourhood as may be available to her for the purposes of settlement, with which lands she is willing to open and maintain communications, and for which she will provide the means of local administration.' They recommended, also, that the connection between the Hudson's Bay Company and Vancouver's Island should cease:—

As to those extensive regions, whether in Rupert's Land or in the Indian territory, in which, for the present at least, there can be no prospect of permanent settlement, to any extent, by the European race for the purposes of colonisation, the opinion at which your committee have arrived is mainly founded on the following considerations: The great importance to the more peopled portions of British North America that law and order should, as far as possible, be maintained in these territories; the fatal effects which they believe would infallibly result to the Indian population from a system of open competition in the fur trade, and the consequent introduction of spirits in a far greater degree than is the case at present; and the probability of the indiscriminate destruction of the more valuable fur-bearing animals in the course of a few years. For these reasons, your committee are of opinion that, whatever may be the validity or otherwise of the rights claimed by the Hudson's Bay Company under the charter, it is desirable that they should continue to enjoy the privilege of exclusive trade, which they now possess.

Soon afterwards Vancouver's Island was wholly withdrawn from the administration of the Company, and erected into a colony; and at the same time the colony of Columbia was established on the mainland opposite, to the west of the Rocky Mountains.

In 1863 a change took place in the proprietary of the Company. Their capital was half-a-million ; and, by an arrangement with the International Financial Society, 1,500,000*l.* was paid by that society to the then existing shareholders, and a new stock was created to the extent of two millions, which was offered to the public in shares of 20*l.* each. By this means a new proprietary was created, which constitutes the present Company ; but no change was made in the charter, and all the rights and privileges which had been granted by Charles II. remained unaffected. In their prospectus the International Financial Society stated that the landed territory of the Company comprised an area of more than 1,400,000 square miles, or upwards of 896,000,000 acres ; and that the southern district (which is sometimes designated the Fertile Belt) would be opened to European colonisation, 'under a liberal and systematic system of land settlement.' It was shown that the average net annual profits of the Company (after setting aside 40 per cent. as remuneration to the factors and servants at the posts and stations in Rupert's Land) for the previous ten years had been 16 per cent. on the old capital of half-a-million, and would, therefore, amount to 4 per cent. upon the new capital of two millions.

During the last few years a negotiation has been going on between the Company and the Colonial Office, with reference to the surrender of their rights in the southern portion of their territory, either to the Crown or to Canada, with a view to colonisation. One important question was the amount of compensation to which the Company would be entitled. Canada, however, denied their legal title to a considerable part of the territory. In a report of a Committee of the Executive Council of Canada in June, 1866, they say that 'they do not admit that the Company have a legal title to that portion of the North-Western territory which is fit for cultivation and settlement. This fertile tract is a belt of land stretching along the northern frontier of the United States to the base of the Rocky Mountains, and Canada has always disputed the title of the Company to it.' But notwithstanding this, the Canadian Government were prepared to admit generally the claims of the Company, and would themselves have opened negotiations for the extinction of those claims if the Con-

federation scheme had not been brought forward, when it was thought that the question ought to be reserved for the consideration of the Confederate Government.

In December, 1867, the Parliament of the Dominion of Canada agreed to an address to Her Majesty, praying that she would by Order in Council under the powers of the Act by which the Confederation of the British North American Colonies was established, unite Rupert's Land and the North-Western territory to Canada. This would embrace British Columbia, and make the new Dominion extend from the Atlantic to the Pacific. The address stated that in the event of the transfer to Canada of the jurisdiction and control over the region, the Government and Parliament of Canada would be ready to provide that the legal rights of any corporation, company, or individual within its limits should be respected and placed under the protection of courts of competent jurisdiction. But the Hudson's Bay Company were not likely to accede to this proposal. It would, if carried into effect, have handed over to Canada their territory, and placed their rights at the mercy of the tribunals of a Government which had gone far to deny that they possessed any legal rights at all. It was like conveying a property to a purchaser, and giving him the absolute power of determining whether he should pay anything for it or not. Sir John Macdonald, the present Prime Minister of Canada, said in the course of his speech on the subject in the Canadian Parliament :—

What would the title of the Company be worth when it was known that the country belonged to Canada, and that the Canadian Government and Canadian courts had jurisdiction there, and that the chief protection of the Hudson's Bay Company, and the value of their property, namely, the exclusive right of trading in those regions, were gone for ever? . . . The value of the Company's interest would be determined by the value of their stock, and what would that be worth when the whole country belonged to Canada?

The address from the Parliament of Canada was not acted upon so far as it prayed for an annexation of the territory by an Order of Council; but an Act called 'The Rupert's Land Act, 1868,' was passed in that year for enabling Her Majesty to accept a surrender, upon terms to be agreed upon, of the lands, privileges, and rights of the Company, and for admitting the same into the Dominion of Canada. And quite recently the Colonial Secretary, Lord Granville, has proposed

that the Company shall surrender to Her Majesty all their rights of government and property in Rupert's Land and other parts of British North America, which will be transferred to the Dominion of Canada upon Canada paying the company 300,000*l.* as compensation. It is proposed that the Company shall retain their rights of trade, their stations, and blocks of land adjoining them; and they shall, moreover, be allowed to claim one-twentieth of the land in every township or district within the Fertile Belt as it is set out for settlement.

Looking forward to the future, it was impossible not to see that a change must take place in the destination of Rupert's Land. It could not always remain merely a hunting-ground for traders in furs. Indeed, the southern part no longer affords to the same extent a supply of those articles; for the animals are decreasing in number, and the valuable trade is in the northern portion. There the climate and the soil are alike unfit for the habitation of civilised men, and the land must for ages be the abode of the bear, the beaver, and the fox, with a few wandering tribes of wretched Indians. But the south is more or less suitable for colonisation, and many considerations point to Canada as the country to which it ought to be annexed.

In the report of a committee of the Executive Council of Canada they say :—

The government looks forward with interest to the day when the valley of the Saskatchewan will become the back country of Canada, and the land of hope for the hardy youth of the province when they seek new homes in the forest; and it anticipates with confidence the day when Canada will become the highway of immigration from Europe into those fertile valleys.

There are, no doubt, serious difficulties to overcome in making such a highway and effecting a ready means of communication between Lake Superior and the Red River. Colonel Crofton, who commanded a body of troops that were sent to Rupert's Land in 1846, stated before the committee of the House of Commons that it would be utterly impossible to make a road for wagons there on account of the swamps. But the word 'impossible' is said not to be found in the dictionary of engineers, and the idea of a railway from Canada, even as far as the Pacific, has long been seriously entertained.

It has indeed been asserted that a Canadian swamp is 'about the best ground that nature ever made for a railway track,' for what is called a 'swamp' there, is a level tract, with a thicket growing upon it, which keeps the ground damp by excluding the sun's rays, and there is generally a stiff clay bottom.<sup>1</sup>

A private trading company like that of the Hudson's Bay has not authority or power to preserve order and good government amongst a large population, composed as it undoubtedly will be before long in a great measure of immigrants from the United States, by no means disposed to submit patiently to law, and least of all to the law of a foreign nation. They would require the strong hand of a powerful Government, and would set at nought the feeble authority of a council of factors and traders.

The Indians sometimes give trouble enough. In a letter from Mr. Mactavish, the Governor of Rupert's Land, dated July 31, 1866, he says that a band of Salt Indians, from Red Lake, in Minnesota, had murdered four Sioux within sight of Fort Garry, and then immediately retired within the American boundary. And at Fort Pitt, on the Saskatchewan, a band of Blackfeet forced the inner gates of the fort and plundered it. They then met in their way a party of the Company's servants returning from the plains, and after firing on them, took away their horses.

The close proximity of the United States makes it very desirable that a transfer of the territory should take place with as little delay as possible. In the report of the Committee of the Canadian Government, to which I have before referred, they say :—

The close relations springing up between the Red River settlers and the Americans of Pembina and St. Paul, and the removal of many Americans into the territory, render it doubly expedient that a settled government under the British Crown should be established in the country at an early date.

Next adjoining the southern frontier of Rupert's Land lie the States of Minnesota, Dakota, and Montana, divided from it by only an imaginary line, across which the straggling

<sup>1</sup> See the evidence of Mr. McDawson before a select committee of the Canadian House of Representatives, printed in the Blue Book; Report, Hudson's Bay Company, 1857.

waves of the advancing tide of population will slowly but surely flow. It may be said, and with truth, that these States are as yet only partially occupied, and that many years must elapse before they are filled with a population which would require any expansion of space towards the north. But we must bear in mind an important fact. It is quite true, as a general rule, that population does not migrate to seek distant lands for cultivation, so long as good land in sufficient quantity can be had near at hand ; but there are numbers of restless spirits in America whose vocation may be said to be to act as the vanguard of material progress. They dislike a settled life ; and when they have made a clearing in the wilderness, and begun to cultivate the soil, they throw down the spade for the axe, and, seized with an irresistible impulse, travel onwards.

I hear the tread of pioneers  
Of nations yet to be ;  
The first low wash of waves where soon  
Shall roll a human sea.

It is thus that, before Iowa was settled, Minnesota was invaded ; and, although that State is only scantily peopled, Dakota and Montana have since been added to the United States.

In 1864 the inhabitants of the Red River Settlement were so alarmed by the threatening attitude of the Sioux, that they strongly pressed Mr. Dallas, the Governor of Rupert's Land, to invite American troops across the frontier ; and certainly, to use the expression of the late Sir Edmund Head, who was Governor of the Company in England, the fact of the Queen's subjects ' looking for protection to the United States, was one of grave importance with reference to the nationality of the settlement and the territory.'

In 1867 Mr. Adams, the American Minister here, applied on behalf of his Government to the Foreign Secretary, Lord Stanley, to know whether arrangements could be made for allowing the troops of the United States to follow Indians who infested the emigrant road in Dakota, and committed every kind of atrocity, into the British territory, where they took refuge. It seems to be rather doubtful whether this particular territory belongs to the Company or

the Crown, as there is a narrow belt of land running to the north of the forty-ninth parallel—the boundary line—which is supposed to be watered by streams which do not find their way into Hudson's Bay, and if so, this was not included in the grant made by the original charter to the Company.

Besides, gold has been discovered in the Saskatchewan region; and in a pamphlet published in America in 1866, and addressed to the Secretary of the Treasury of the United States, the following significant passage occurs:—

Rumours of gulches and ledges in the Saskatchewan district, yielding even greater prizes to the prospector, are already rife, and will soon precipitate 'a strong, active, and enterprising people' into the spacious void. What is called the Americanisation of the Red River Settlement has been slow although sure, since the era of steam navigation, but this Americanisation of Saskatchewan will rush suddenly and soon from the camps of treasure-seekers in Montana.

I will now say a few words on the constitution and government of the Company. In England it consists of a governor—Prince Rupert's chair at present is occupied by Sir Stafford Northcote—and a body of directors, who represent the shareholders. In Rupert's Land there is an acting governor, who is assisted by a council composed of the chief factors, sixteen in number, and sometimes of chief traders, and by a recorder, who was first appointed in 1839. The chief factors are not paid by salaries, but are admitted into a sort of partnership with the Company, on the following principle: the profits are divided into one hundred shares, of which forty are allotted amongst the officers in the territory in certain specified proportions. This forty per cent. is debited to the fur trade, and is, of course, so much deducted from the fund available for dividend to the shareholders. It is, in fact, part of the working expenses of the concern, which must be paid before the net profits can be ascertained. Besides the chief factors, there are twenty-nine chief traders, and the number of servants in permanent employment is about 1,200.

The number of forts or posts in Rupert's Land is sixty-six. At the north end of Lake Winnipeg is the fort called Norway House, which is the central station of the upper country. Here brigades of boats receive annually their supplies for the different posts, and proceed on their winding voyages along rivers and lakes, bringing back furs which are then conveyed to York Factory, on Hudson's Bay, and shipped

to England. At Norway House also there is annually a meeting of the factors who have charge of the different posts, and who there consult together on the interests of the trade.

The currency of the country is the beaver skin, as tobacco used to be in Virginia. It is the unit of value according to which all barter is computed. Thus, ten musk rats go to one beaver, and a beaver is equal to a blanket. Four or five beavers go to a silver fox, and a certain number of silver fox-skins are given for a gun. The way in which the trade is carried on is this. When an Indian hunter arrives at one of the posts with a bundle of furs, he proceeds to a room, where the superintendent separates the furs into lots, and, after adding up the amount, delivers to him a number of little pieces of wood, which indicate the number of beaver skins to which his furs are equal in value. The Indian then goes to the store-room, which contains the articles he wants, such as blankets, coats, guns, powder-horns, and knives. Each of these has a fixed and known value in beaver-skins, represented by the pieces of wood, and the hunter pays them away just as if they were cash for whatever article he fancies. At Red River, however, the Hudson's Bay Company issue notes to the extent of 9,000*l.* or 10,000*l.*, which act as a circulating medium in the colony.

When the furs arrive in England they are stored in the Company's warehouses in Lime Street—part of the buildings of the old East India Company—and they are sold in lots by auction, in the spring of the year. There, in the different rooms may be seen vast piles of skins of bears, foxes, wolves, wolverines, martens, minks, otters, and even skunks—which last are used on the Continent (where, I suppose, the olfactory nerves are not so sensitive as ours), for the lining of cloaks. A story is told of the late Prince Gortchakoff, that when he was in England a short time before the Crimean war, he went to see a fox-chase, and as the hounds approached they suddenly made a rush at him and gave tongue loudly. They were with difficulty whipped off by the huntsman, and it turned out that the Prince was wearing a cloak lined with the skins of foxes, so that the dogs naturally attacked him. If they had pulled him down, the Russians might never have



crossed the Pruth, and the world would not have heard of the siege of Sebastopol!

It seems paradoxical that the highest prices in proportion to their value should be given for the inferior furs. But the reason is this. If the Company were to pay for the finer furs at the same rate as they pay for the less valuable ones, the Indians would hunt up the animals that bear the best furs and destroy the race, as has, in fact, been the case along the southern frontier. The silver fox and the beaver would soon disappear, and only musk rats, and raccoons, and martens be left. Since the beginning of the present century, the collection of furs has much increased, but the Company pay the Indians more for them, and thus there is a larger trade in them than ever, but with less profit. The valuable trade is in the remote and colder districts, where, there being no interference by the efforts of civilisation, the animals are preserved like game in England, and the Indians are encouraged to kill them only when the fur is in season, and to spare the females when they are breeding. But if the trade were thrown open, it is obvious that wanton destruction would ensue, and the supply of furs would soon cease to exist, for it would be the interest of every trader to secure as much in as short a time as possible, and, to use a homely phrase, the goose would be killed to get the egg.

I have now endeavoured to give an account of the constitution and history of the last of the great proprietary companies of England, to whom a kind of delegated sovereignty was granted by the Crown. It was by some of these that distant colonies were founded, and one, the most powerful of them all, established our empire in the East, and held the sceptre of the Great Mogul. But they have passed away—

*fruit Ilium et ingens*

*Gloria Teucrorum—*

and the Hudson's Bay Company will be no exception to the rule. It may continue to exist as a Trading Company, but as a Territorial Power it must make up its mind to fold its (buffalo) robes around it, and die with dignity.

*A VISIT TO RUSSIA AND THE GREAT FAIR  
OF NIJNI NOVOGOROD.*

I LEFT London, with my brother Douglas, on the 8th of August, 1864, to visit Russia, intending to make Nijni Novogorod, on the banks of the Volga, the limit of our journey.

We travelled by way of Calais, Cologne, Hanover, and Magdeburg, to Berlin. Here we stayed one day, and left it at night by the railway for Warsaw.

As the day dawned, we found ourselves in a really pretty country—flat of course—but agreeably diversified with wood, consisting chiefly of fir and birch trees, extending as far as the eye could reach on both sides. But there was little monotony, as the forests through which we rapidly passed were every now and then broken by large patches of pasture or arable land; and in default of these there were far-stretching glades, reminding one of an English park on a colossal scale.

I was impatient to find myself veritably in Russia, and was speculating as to the kind of frontier town we should see, with visions before my mind's eye of bastions and walls bristling with cannon, when, soon after entering a fir forest, the train began to slacken its speed, and, gliding into an enclosure of about two acres in extent, which was surrounded by a strong wooden palisade, we stopped at a very rustic-looking station called Ocloczyn; and a guard of Russian soldiers, drawn up in stiff array on the platform, told us unmistakably that we were at last in the land of the Czar. Here, of course, we had to get out of our carriage to have our luggage overhauled and passports examined. Nothing could be more civil than the conduct of the officials. I had had sundry misgivings as to the nature of the ordeal through which we should have to pass—owing, perhaps, in part to what a

Russian nobleman had told me, before I left London, as to what had once happened to himself on his return from England to Russia. His valet had wrapped the boots of his master in some old numbers of 'The Times'; and to prevent the surreptitious introduction in this fashion of such a revolutionary journal into Russia, the boots were carefully stripped of their coverings, and the obnoxious paper was confiscated.

While we were waiting for our turn to have our passports examined, a smart-looking Russian officer in uniform came up to me, and said, 'Votre nom, Monsieur, s'il vous plait?' I told him, and he then said in French, 'I have expected you for several days. You are rather late.' 'Indeed!' I answered; 'do you know me?' 'Oh, no!' he replied, 'but I have had a letter about you.' 'From London?' I asked. 'No,' he said, 'from Warsaw.' I found his only object was to be of use to us; and I certainly felt much indebted to the person, whoever he was, who was kind enough to inform this most courteous officer of our intended visit. He took care that we should have no trouble with the examination of our portmanteaus, which was only formal, and we got our passports handed to us almost immediately. Two of our travelling companions were not so fortunate, for on stepping out of their carriage they were immediately arrested and marched off by the guard. The officer who effected the arrest was a youth of eighteen, who spoke English tolerably well, having learnt it, as he told us, from his sister's governess, although, we were, I believe, the first English travellers with whom he had had the opportunity of conversing. I asked him the reason of the arrests, but he said he knew no more than that he had received a telegram and obeyed its orders. He afterwards travelled with us for a short distance, and told us that the Emperor was expected soon at one of his summer palaces, which we saw as we passed, when he was to receive his commission as an ensign (he was then only in the *gendarmérie*) for a little exploit he had just performed. This consisted in surprising a party of insurgent Poles at a country house in the neighbourhood, who took to flight, but were fired upon by the Russians under the boy's command, and several of them were killed.

We had to wait nearly two hours at this forest station, but

the novelty of the scene made the time pass quickly. Here I first saw the inevitable *somovar*, or Russian tea-urn, which afterwards became so familiar to me, for I suppose there is hardly a house in Russia—I am not speaking of the hovels and huts—where it is not to be found. And here I first drank, not a cup, but a glass of Russian tea, *tchai*, with a slice of lemon in it, instead of milk—and beyond doubt it was excellent. People tell you that the tea in Russia is better than in England, because it is brought overland, and there is something injurious to its flavour in a sea voyage; but I believe that this is nonsense, and that the real reason is, that the best kind of tea is grown on the western frontiers of China—that is, on the side nearest to Russia—and so most readily finds its way there. Some open third-class carriages were attached to our train, and these were here filled by a crowd of some of the most uncouth-looking peasants it was ever my fate to look upon. They were like a bad lot of low Irish *minus* their rags, for I must do them the justice to say that their clothes, though coarse in the extreme, had no solution of continuity. Their hair fell over their faces just like thatch, which it resembled not a little in colour; and their high cheek-bones, broad upper part of the face, low noses, and ‘foreheads villanous low,’ make me fancy that they must be a party of Kalmuck Tartars.

There is little worth mentioning as likely to interest the reader in the journey between Ocloczyn and Warsaw. The character of the country is much the same throughout, but it was far prettier than I had expected or imagined. Alternate forests of fir and birch, and birch and fir, broken by grassy interludes, with here and there sheets of water and an undulating swell in the ground, were the chief features of the scenery. These forests, however, bore significant token of the Polish insurrection. On each side of the railway the trees had been cleared away to the distance of a musket-shot, for trains had frequently been fired upon where the thick forest afforded shelter to the assailants. It was evident that the Polish peasantry had no Enfield or Whitworth rifles, as the breadth of the space that was cleared was barely equal to the range of a common smooth-bore musket. I was struck everywhere in Russia by the slender shape of the trees. *Timber*, in our

sense of the word, I saw none ; but tall, slim, graceful stems, with the remarkable peculiarity that no branches were thrown out lower than half way up the trunk of the tree.

The first view of Warsaw from the south is very disappointing. The city lies on the south or left bank of the Vistula, and as that bank rises much higher than the other, and the plateau extends at the same level far into the interior, you lose the terrace view which meets the eye of the spectator from the opposite bank. The immediate approach is dull and dirty. The chief objects are a great number of coal-yards ; but here and there were the ruins of fortifications, the scene of the sanguinary struggle in 1832. On reaching the station we were not allowed to leave our carriages until we had handed out our passports, and after these had been cursorily examined we were permitted to get out, and told to go into a large room where they would be delivered to us after our luggage had been overhauled. Never shall I forget the scene of confusion in that room. It was filled to overflowing by a struggling crowd of people waiting to get their passports, and I began to despair of ever seeing ours again. At last the tedious ceremony was over, and, having secured a wretched carriage, we drove to the Hôtel d'Angleterre, or *Angliński*, as it is called in Poland and Russia. We had been advised by our Russian officer friend, who was so polite to us at Oloczyn, to go to the Hôtel de l'Europe, but, in the course of our journey, others had recommended the Hôtel d'Angleterre. And as it turned out, it was well that we so decided, for, owing to a dastardly murder that had been committed recently in the Hôtel de l'Europe, that hotel had been closed for a time, and was now only just opened for the exclusive reception of Russian officers. They must have been very numerous to fill it, for it is of enormous size, and seemed to occupy the whole side of a street. The Hôtel d'Angleterre is in the Novi Soyat, a dull street, and has a very forbidding exterior. Nor was the inside inviting. However, there is a tolerably good 'coffee-room,' and the bed-rooms, though furnished in the plainest manner, were tolerably clean. And here I may mention that not once during my stay in Russia was I annoyed by any of those unmentionable insects which contribute so much to the discomfort of the traveller. I have

been far less fortunate in Italy and Germany, or even in England. The hotels are perhaps the least in keeping with the wealth and luxury which prevail amongst the upper classes ; but, although shabby in appearance, I found them generally clean and comfortable. I speak, however, of my own experience only, for some of the friends whom I met loudly complained that they had been almost devoured by nocturnal marauders of the worst description.

We dined exceedingly well in the *salle à manger*, where at the table next to us sat the fattest man I think I ever saw. He was a mountain of flesh, and one upon whom Banting would have yearned to operate. I mention 'our fat friend,' however, merely as a remarkable contrast to the general appearance of the people in Russia and Poland. The men are tall and well made, with fresh complexions, and seldom even stout. I wish I could say that the women are good-looking, but truth compels me to state that the reverse is the fact : of course I am not speaking of the aristocracy, amongst whom many of the fair sex, I believe, may vie with the fairest in any country of Europe ; but these I had little or no opportunity of seeing, as the great towns of St. Petersburg and Moscow are, in the autumn, like London, comparatively deserted by the higher classes ; but, in the streets and the shops, the women one meets with are, beyond controversy, plain—not to use a stronger term.

On the evening of my arrival in Warsaw a laughable adventure befel me, which may be worth mentioning as it illustrates the present condition of that unfortunate city. When it grew dark I sallied out of the hotel for a stroll, and as I walked along the streets I observed that everybody I met, whether man, woman, or child, carried in his or her hand a lighted lantern. I began to have suspicions that I was not *en règle*, when just as I reached the open *platz* where the theatre stands, and opposite to it the blackened walls of the Hôtel de Ville, burnt down in 1863 by an incendiary fire, I was stopped by a Russian soldier, who, although speaking in an unknown tongue, made me clearly understand that I was guilty of the offence of not carrying a lantern. I thought the best plan would be to treat the matter as a joke, and, shaking him by the hand, I said, 'Sprechen sie Deutsch,

mein Freund?'—'Nitt! Nitt!' was the reply. 'Parlez-vous Français?'—'Nitt! Nitt!' 'Do you speak English?'—'Nitt! Nitt!' I then told him *in English* that I was not a Polish conspirator, but an Englishman, with a emphasis on the word. He brightened up at this, and asked, 'Angliski?' I said, 'Da! Da!' which means 'Yes! yes!'—when the good-humoured fellow, thinking no doubt that Englishmen did not carry daggers or pistols to assassinate in the dark, patted me on the shoulder, and let me go, saying something like '*Brosch! Brosch!*' which I interpreted to mean 'Go on!' and I immediately decamped. It was, however, out of the frying-pan into the fire; for almost immediately afterwards I met two other soldiers, who had already under arrest a lanternless individual like myself; and although I tried the same manœuvre with them, they were not to be so easily cajoled. I was ordered to accompany one of them, who made me march by his side for fully three quarters of a mile until we came to a kind of courtyard at the bottom of which was a Russian guard-house, where I was ushered into a dimly lighted room, and ordered to give an account of myself. Luckily I found there an officer who spoke German, and to him I explained how I had got into the scrape owing to my ignorance of the law which prohibited anybody from appearing in the streets of Warsaw after nightfall without a lighted lantern in his hand. The reason of this was the numerous assassinations that had occurred—for, as is well known, murder was resorted to by the agents of the National Committee without scruple or remorse. It was, in fact, not safe to traverse a dark spot, and women, or at all events men dressed in women's clothes, were quite ready to use the poniard or the pistol at the bidding of an invisible and mysterious authority. I showed the officer my letters of introduction to the Governor of Warsaw, Comte de Berg, and this satisfied him and the rest that I was neither a Pole nor a conspirator. They made me write down my name and address, and then told me I might go; but I declined to do this unless they would furnish me with a lantern, for I did not know my way in the dark, and besides I should be infallibly again arrested if I appeared in the streets without that safe-conduct. They had, however, no lantern to spare, and, as I positively refused

to stir unless they provided me with one, my German-speaking friend good-naturedly said that he would buckle on his sword and accompany me to my hotel, which he did ; and I had no further trouble or annoyance—*Sic me servavit Apollo.*

There are few 'lions' at Warsaw. The only buildings of any great size are the Castle and the Citadel. The Castle is a large, irregular, feudal-looking fortress situated on the slope of the left bank of the Vistula. It is called *Zamek*, and here the Governor or Viceroy of Poland resides. The chief interest is in the appearance of Warsaw itself—a melancholy city—the scene of so many sorrows and tremendous calamities. It is still under martial law, and every access to it is so strictly guarded that I do not think a mouse could creep into it unless provided with a passport. The chief movement in the streets was the tramp of soldiery, and at short intervals mounted Cossacks on their small active horses kept watch and ward. There was none of the life and bustle of a large town. The shops are mean and poor, and we saw nothing to tempt the purchaser. There was an inexpressible air of *tristesse* over the whole place. Not long ago it was the mark of patriotism for the Poles, both men and women, to wear black when they appeared in public ; but this naturally gave offence to the Russian authorities, and the sign of national mourning was discontinued. It did not, however, require any external symbol to show how profoundly depressed was the feeling of the population. The only symptom of business-like activity that I saw was in a quarter where the Jews 'most do congregate.' It seemed like a Stock-exchange in the open air ; and here there was a swarm of the sons of Israel, dressed in long dirty cloth pelisses, with grizzly beards, uncombed hair, and unwashed faces. We had occasion to go amongst them to get some Polish notes exchanged for gold, as the banks happened at the moment to be shut.

I had the good fortune to be previously acquainted with Colonel Stanton, R.E., who is the British Consul at Warsaw, and we called on him at his residence in the Ujazlov, a long avenue bordered with lime and chesnut trees, in the suburbs of the town, and the fashionable promenade at Warsaw. I cannot thank him and Mrs. Stanton enough for all the atten-



tion and hospitality which they showed us during our stay. Under his care we explored the city, and saw all that was worth seeing, which was not much. He drove us in his wagonette, drawn by two beautiful greys, with their ringing bells, to the château of Count Potočki (pronounced Potoski), which is situated about four miles from Warsaw, and is a place of historical interest, having formerly belonged to the Sobieski family. Here the great John Sobieski, the deliverer of Vienna from the Turks, and one of the best kings and greatest warriors whom Poland has produced, passed his latter days in retirement, and died. The road leading to it which we took (not the *chaussée* or principal road, which is more circuitous) was simply a sandy track which in wet weather must be almost impassable, and even now there were places that would have horrified an English coachman, and severely tested the strength of the springs of the carriage, which had been built in England expressly for such excursions. The Villa Potočki had a most deserted look. The gardens were overgrown with weeds, the shrubs were unpruned, and the whole place seemed to be running to seed. The Count and Countess were absent in Paris, and the house was left to the care of a librarian and a few domestics. The furniture is extremely beautiful, and there are many valuable works of art; but the pictures are chiefly copies with a few poor originals. What interested me most was the library, which amongst other treasures contains a rich collection of works on the ancient history of Poland.

Close to the villa is a building used as a hospital, which was made a place of concealment for the insurgents during the revolt. There was a report that some of them had been taken and hanged there the day before we visited it, but on inquiry this turned out to be untrue. Some of the tenantry of Count Potočki were implicated in the insurrection, and since my return to England I have been informed by Colonel Stanton that a fine of 49,000 rubles, equal to about 7,000*l.*, has been imposed upon the Count in consequence. One of the most arbitrary measures of the Russian Government with respect to Poland since the suppression of the revolt has been the conversion of the tenancies of the peasants into freeholds giving only a nominal compensation to the landlord. In other words, it has confiscated their property, and made a present

of it to the labourers, with the view, no doubt, of enlisting the popular feeling if possible in its favour.

And here it may be interesting to mention a few facts relating to the secret history of the late insurrection. For a long time its movements were under the control of an invisible and mysterious body called the National Committee, which defied the utmost efforts of the Russian police to discover its place of meeting or the names of its members. It marked out individuals for murder, and the assassin was employed to execute its decrees. There can be no doubt that numbers took part in the insurrection less from patriotism than terror, for the Pole who hesitated to join the ranks of the insurgents was as much exposed to the vengeance of the Committee as the Russians themselves. And this terror was intensified by the impenetrable darkness in which all its proceedings were shrouded. Its edicts and proclamations came forth like the handwriting on the wall at Belshazzar's feast, and no one could tell from whom they emanated. A trial, however, took place last year which lifted the curtain and revealed the names of some of the actors behind the scenes in the revolutionary drama. And, strange to say, a great many of them were women. The persons accused were Romnald Traugutt, Ellen Kirkor, Emily and Barbara Guzowski, Alexandrine Wroblewska, Krajewski, Toczyski, Zailinski, Jezuranski, and others; and the following facts were elicited, or at all events said to be proved.

Traugutt was a landed proprietor of the district of Kobrynsk, in the government of Grodno, and formerly commanded a band of insurgents in Lithuania. He came to Warsaw, under the assumed name of Czarnecki, as the agent of a commercial house at Lemberg, and in the month of October 1863, became the secret chief of the National Government. He lodged in Smolna Street, in Warsaw, and the emissaries whom he employed to carry papers and letters were chiefly women, who concealed them in their clothes. The place where these women met was an apothecary's shop in Marshal Street, and a gingerbread-baker's shop in Capitalna Street. The leaders of the movement used to assemble in the auditory of the chief school in Warsaw, by the connivance of one of the teachers or lecturers named Dybowski. Ellen

Kirkor kept the lodgings where Traugutt stayed, and she was accused of sending out and receiving revolutionary correspondence. The other women were charged with a similar offence. All were found guilty, and sentenced to death; but only five—Traugutt, Krajewski, Toczyski, Zailinski, and Jezuranski—were hanged. The rest were sent to the mines and fortresses of Siberia for various periods, and all were deprived of their civil rights. Each of the women, including the daughter of the gingerbread-baker, was styled ‘noble’ in the *acte d’accusation*.

Having letters of introduction to the Governor of Warsaw, Comte de Berg, we called upon him, and were most courteously received. He is more than seventy years of age, but looks much younger. He is thin, and upright as a dart, with all the politeness of the manners of the *vieille cour*. He asked us to dine with him at the castle the next day, at the primitive hour of half-past four, and on going there we found the Count and Countess and a small party assembled, including Prince Wittgenstein, Count Osten-Sacken, and others. The room in which we were received opened out upon a terrace, half of which was converted into a sort of divan, or tent, by an awning of gaily-striped cloth put over it. It was prettily ornamented with shrubs; and here coffee and cigars were handed after dinner. The other half of the terrace was open to the sky, and commanded an excellent view of the Vistula and country to the north in front, with Warsaw behind. While I was standing here before dinner, and talking to one of the guests, a servant came up and handed a tray containing *liqueurs* and sardines and other condiments, which it is the universal custom in Russia to take immediately before dinner on the same principle, I suppose, as that on which we sometimes eat oysters—namely, to give an appetite. One of the best things served in this way is *caviare*, which the Russians say we spoil by eating it at the end of dinner, instead of before. It certainly gives a relish to the appetite, and is, in all respects, worthy of commendation. This ante-prandial *goutte* is called *zakouski*.

I sat next to the Comte de Berg at dinner, and he spoke in the frankest manner about the Polish insurrection, telling me things which showed evidently that there are two sides to

the story. The dinner and wines were excellent, and nothing could be more agreeable than the demeanour and manner of our host. He is, I believe, a German by birth, and when he found that I understood that language, he immediately adopted it, evidently preferring it to French. I had happened to say before dinner that I had not seen the Cathedral; and as there is a private passage into it from the castle, the Count proposed that we should visit it at the end of the repast. He accordingly led the way, and we all followed, through long corridors and vast empty rooms, access to which had been blocked up while the insurrection was raging, to prevent a surprise. At last we emerged into a gallery which overlooked the interior of the Cathedral, and here we found service going on, and a few worshippers at their devotions. Notwithstanding all the pleasure of the evening, the stern reality of the situation was painfully recalled to my mind by the fact that, the week before, three of the Polish insurgents had been hanged on the *glacis* of the citadel. The Countess de Berg, who is a Roman Catholic, like the Poles, had in the meantime gone away to St. Petersburg, which the Count told me was merely like a journey from London to Brighton, forgetting the small difference between a journey of fifty and one of eight hundred miles.

I looked with some interest on the Palace Zamoyski, where an attempt was made a short time ago upon the life of the Count by the explosion of a bomb as he and his suite rode past. It is a plain and unpretending-looking hotel, with a large building attached to it, which was let out in apartments, and I believe shops, producing a large revenue to the proprietor, Count Zamoyski, who resides in Paris. But the whole had been confiscated by the Russian Government, and was now occupied by soldiers like a barrack. In the destruction of property that took place in the first outburst of the fury of the soldiery, the chief and most irreparable loss was that of some valuable manuscripts relating to the early history of Poland.

I have spoken of the melancholy aspect of the city, and this was rather enhanced than diminished by the fact, that a great deal of painting and whitewashing was going on, owing to the expected arrival of the Emperor, who was to open the

new suspension bridge across the Vistula, a handsome structure, with open lattice work at the sides, then nearly finished. Warsaw must of course show herself in holiday attire, and as cheerful as possible, in the presence of the Czar ; but it seemed a bitter mockery thus to put bright robes upon the discrowned Queen, and force a smile from her face, while her heart was devoured by sorrow. It reminded me of the story of what once occurred in the time of the Empress Catherine, when she was about to make a progress through her dominions, and, in order that she might be pleased by the sight of the prosperity of her subjects, whole villages made of painted canvas were 'got up' for the occasion, and placed at intervals along the road by which she was to travel.

We went to the theatre, where a French company was performing ; and, as might be expected, the audience was composed almost entirely of military. The pit was filled with soldiers, the greatest part of whom must have been wholly ignorant of the language spoken by the actors, and little able to understand the meaning of the play, which was a comedy.

To show the excessive strictness with which all entrance into the city is watched, I may mention that Colonel Stanton, the British Consul, being provided with a pass, which he imagined was an *open sesame* at all times, went one day with a party of friends to a picnic, and, returning after nightfall, was stopped at the barrier. He showed his paper, duly signed by the authorities ; and, after being carefully examined, it was returned to him, with the remark, that, although it gave him permission to *go out* of the city at all times, it did not give him permission to *come in* ; and the soldiers refused to allow him to pass until a messenger was despatched to the proper quarter, and an order was brought which enabled him and his friends to get home to bed. Of course it was a mistake, and a more full and precise permit was given to Colonel Stanton, of which, while we were in his company, we were able to avail ourselves.

On the opposite side of the Vistula, which is about the breadth of the Rhine at Coblenz, or perhaps a little broader, is, or rather I ought to say *was*, a suburb of Warsaw called the Prağa. It formerly contained streets, houses, and several churches, but it is now a scene of desolation ; and the only

building of any size or importance there is the railway station, the terminus of the line that connects Warsaw with St. Petersburg. The Praga was laid in ruins by Constantine in 1832. By far the best view of Warsaw is from this spot. The city crowns the opposite bank of the river in a long picturesque line, flanked on the extreme west by the formidable citadel which was built by the Emperor Nicholas; and he told the Poles that, if they were refractory, the guns of the fortress would lay the city in ashes.

We left Warsaw for St. Petersburg by the railway early in the morning. Very little luggage is allowed free on this line (on that between St. Petersburg and Moscow, *none*), and we had to pay rather heavily for our two modest portmanteaus. The carriages are of different kinds, but all seemed to be comfortable and well-arranged. Some of them are like ours; others like those on the Lombardo-Venetian line in Italy, long saloons with open compartments at the sides, each holding four persons; others are divided into several compartments by partitions like screens which do not reach to the top of the carriage. To the first-class carriages are annexed rooms for the accommodation of domestics; and if you like to take a whole compartment for yourself and family, you may have beds laid down, and sleep at your ease. One excellent arrangement, which ought to exist on our own railways, is that the platform of the station is always on a level with the floor of the carriage, so that the passenger can get in and out without the risk, as with us, of breaking his leg, or at all events bruising it while trying to find the step. It renders also accidents which happen from people trying to get in or out of a carriage at a station, while the train is in motion, almost impossible. The fuel with which the locomotives are supplied is entirely wood, and the chimney of the engine is in shape like an inverted bell. Upon the important question of refreshments on a long journey, I can speak in terms of unqualified praise of the Russian railways. The best *buffets* no doubt are those between Petersburg and Moscow, but everywhere they are good. The Russians like good living, and have strong appetites ever ready to do justice to substantial food. Soup, hot cutlets, and vegetables are always ready at the refreshment rooms for the hungry traveller; and there is

a delicious kind of rissole which I particularly liked. The choice of wines, both French and German, with liqueurs, is abundant, and they are in quart and pint bottles with the price marked on each. It was impossible not to contrast all this with the miserable arrangements at Rugby, Reading, Swindon, and other English stations ; where stale buns, greasy sandwiches, and choking pork pies form the chief staple of the refreshments, and the only wine you can get is Marsala usurping the name of Sherry.

On our journey to St. Petersburg we crossed the Niemen and the Dwina, and passed by Wilna and Dwinaberg or Djünaberg. The scenery in the neighbourhood of Wilna, to the north, is really picturesque ; with wooded valleys enlivened by streams, and very different from what I had expected to find in Russia, which my imagination had depicted beforehand as a vast dreary plain overspread by monotonous forests. Wilna was the principal and central *depôt* for the magazines of the French army during the invasion of Russia in 1812. It was here that Napoleon received a deputation of Poles demanding from him the restoration of the kingdom of Poland. His reply was evasive, but contained sufficient encouragement to make them believe that such was his intention, and in a transport of enthusiasm and joy the Polish nobles proclaimed the event, and celebrated a solemn mass in the Cathedral. Dwinaberg and the surrounding district is under the government of General Mouravieff, who has the reputation of being a stern and severe ruler. It is fortified on all sides, and the bridge over the Dwina is defended by a newly-built *tête du pont* of great strength. At every station, until we quitted Russian Poland, a guard of soldiers in grey great-coats was drawn up on the platform, and each man looked uglier than his comrade.

There is nothing farther that deserves notice on the route to St. Petersburg until the traveller approaches the capital itself. The scenery then becomes tamer and flatter and uglier than at any other part of the journey, and one can readily believe the fact that the city occupies the site of what was once nothing but a woody swamp. The distant domes and spires seem to rise out of the ground like an exhalation, or perhaps more like a *mirage* in the desert. We had written

to Miss Benson, who keeps the well-known Benson's Hotel, on the English Quay, to have a carriage ready for us at the station ; and we were thus able to contemplate with calm indifference the scene of indescribable noise and confusion there, arising from the vociferous importunities of the droshky-drivers, who all but carried us off by force in their struggles to get a 'fare.' We drove to, the Hotel Benson, which is, however, not, properly speaking, an hotel, but a *pension*, where you are charged so much a day for board, whether you take your meals there or not. It is pleasantly situated on the left bank of the Neva, but rather too far off from the shops. We found it tolerably clean and tolerably comfortable.

I shall not attempt to give more than a very general description of St. Petersburg, for, in the first place, it is too well known, and most things relating to it can be found in Murray's Handbook ; and in the next, I have always thought that minute accounts of places or scenery are tedious and uninteresting.

What struck me most was the colossal scale of everything—buildings, streets, and squares. The Admiralty cannot be much less than three-quarters of a mile in circuit, and it stands with its back to the Neva, in an open *platz* of immense size. Right opposite to it runs the magnificent street called Nevskoi Prospekt, the widest, and one of the longest in Europe. It is about twice as broad as Regent Street, and in the middle are two lines of iron rails, along which the omnibusses run, on the same principle that Mr. Train tried unsuccessfully to introduce in London. As the rails are level with the rest of the ground, not the slightest inconvenience is felt by the other traffic, and they are crossed by the droshkies without any jolting or interruption. The houses on each side of the street look low, owing to its immense breadth, and they are built without any attempt at regularity, either in height or architecture. The shops are not to compare in gaiety of appearance with the shops of Regent Street or the Rue de Rivoli, and their contents are not nearly so attractive. In the jewellers' shops most of the ornaments are made of malachite, but I was assured, on good authority, that it is not fashionable, and the Russian ladies think very little of it, as, indeed, might be expected in a country where massive pillars and



doors are formed of the same material. It is by no means cheap at St. Petersburg or Moscow, and the kind most prized is a pale green stone, with as few veins or marks in it as possible.

Nothing can exceed the liveliness of this street in the middle of the day, with its innumerable carriages dashing backwards and forwards, from the humble hired droshky, with its (too often) wretched horse and uncomfortable seat, to the gay private droshky, to which a side horse is attached, cantering along with its neck and head arched outwards, just as we may suppose the *ἵππος παρῆγορος* of the Homeric chariot did. The drivers, or *istvostchicks*, as they are called, are all dressed alike in a long flowing pelisse, with an embroidered girdle, generally very dingy, and a high four-cornered cloth cap on their heads. I soon learnt the necessary words to use when driving in one of these vehicles, and they were not difficult to remember by giving to each of them a fancied resemblance to English. Thus *pashol*, push on! means 'get along!' *scorrei*, hurry-scurry! 'go faster!' *stoi*, stay, 'stop!'

One consequence of the size of the street and squares is the apparent paucity of the population. All along the English Quay, on the south bank of the Neva, and in the vast open space that extends from it past the Admiralty to the Winter Palace and the Hermitage, the number of passengers was so small as to give St. Petersburg the appearance of a deserted city. Indeed, the only street in which there was life and bustle was the Nevskoi Prospekt. At the eastern extremity of the English Quay, in the square, or *platz*, opposite the Izak Church, stands the famous granite monolith on which is placed the equestrian statue of Peter the Great. I confess I was disappointed in the size of this block of stone. I had heard so much about it, that I expected to find it a good deal larger. It *was* larger no doubt when first brought to St. Petersburg, but it was chipped and pared down to give it the shape it now bears, which is an inclined slope, up which the horse of the Czar is supposed to have galloped, and he stands at the top with his fore feet raised high in the air, almost in the attitude of rearing.

The Izak Church, which I have just mentioned, is the principal, or at all events the most richly ornamented and

most costly church in St. Petersburg. It is in the form of a Greek cross, and crowned with a cupola, which, though really lofty, looks low, owing to the massive breadth and size of the building. The bronze gates are beautifully sculptured in *bas-relief* representing Scripture subjects. We ascended to the top, and had a splendid view of the whole city and neighbourhood. The interior of the church is very sombre, and completely realizes the idea of a 'dim religious light.' But the *eiconostasis*, or screen before the altar, is a gorgeous mass of gold, through which at intervals appear the painted heads and hands of different saints who are the objects of devout reverence and worship in Russia. The custom is to kiss the picture, and I was surprised to see the dexterous mode in which the women prostrated themselves to the ground, touching the stone floor with their foreheads, as they saluted some favourite saint. It would have puzzled an English-lady to perform the same feat in the days of crinoline. Externally the Russians appear to be the most devout people in Europe, and they certainly have the organ of reverence developed in an extraordinary degree. You may see at all hours of the day soldiers, droshky-drivers, butcher-boys, and, in fact, persons of every class and grade, pulling off their hats and saying their prayers before a picture of the Virgin or a saint in the street. Confession, I believe, is made once a year, and the officers have a compendious form of going through the ceremony ; for on entering the room where the priest is seated they throw a piece of money on the table, and say, 'My sins are just the same as last year, Father.'

At first sight, the buildings in St. Petersburg seem to be of stone ; but a little examination shows that it is nothing but stucco, and as this becomes decayed and broken it gives the houses a dilapidated appearance. Even the huge Winter Palace, which, when occupied by the Imperial family, is said to hold 7,000 persons, is only brick covered with plaster. St. Petersburg is, in fact, a *veneered* city ; but this is far pleasanter to the eye than the dirty, unwashed nakedness of London ; and where stone cannot be got, it is, I think, quite right to make the best imitation of it. In the Hermitage, which is next to, and continuous with, the Winter Palace, there is a remarkably fine collection of pictures, particularly

some Rembrandts and other celebrated masters of the Dutch school. I had the good fortune to explore them in company with Mr. Savill Lumley, the British *chargé d'affaires* while I was at St. Petersburg, who is himself such an accomplished artist that some of his copies might well be taken for originals.

Amongst the *lions* of the capital must not be forgotten the mammoth *elephant*, the skeleton of which stands in the Museum of Natural History on the north side of the Neva. It was discovered in Siberia, with enough flesh on it, *as they say*, to give the wolves a meal; but they must have found it a terribly tough morsel. It is no doubt a very respectable monster; but size is a mere question of comparison, and beside the antediluvian has been placed a huge elephant of modern times, which is very nearly, if not quite, as large as his prehistoric ancestor. The tusks seem to have grown almost at right angles with the jaw; but this is merely the result of a mistake in setting up the skeleton, and the brute is in all respects a fac-simile of the elephant of the present day. We were told that another fossil skeleton has lately been found in Siberia, and it is expected that it will be disinterred and removed to St. Petersburg.

We went one evening to a place called in French *les Eaux*, situated on one of the numerous small islands with which the Neva, as it flows from the north-east, is studded. Here we found a troop of Swiss girls, or girls dressed in Swiss costumes, who sang national songs; and an English gymnast, whose body seemed to be made of India-rubber, so extraordinary were the knots and contortions into which he twisted himself. As we drove home, the view of the long array of gas-lamps on the south bank of the Neva, stretching away as far as the eye could reach, had a very beautiful effect. The Neva is lined on both sides with granite quays; and when the water reaches a certain height, a gun is fired to give warning to the inhabitants, that they may be prepared for a possible inundation. While we were at St. Petersburg the water was within a few inches of the dreaded mark. The weather, however, was fine during our stay, with the exception of one day, which was cold and wet, and gave us some idea of what the icy breath of winter must be there. I observed

that then a great many people put on their *bashiliks*, a high-peaked covering for the head, of strong cloth, which completely shelters the head and shoulders from the rain, and keeps the wearer comfortably warm.

One of the most interesting things in the city is the Foundling Hospital, with its curious internal arrangements. Like everything else in Russia, it is on a vast scale. We were conducted over it by one of the intelligent medical men attached to it, and obtained from him a good deal of information. There were then not more than six hundred infants in the building, but the number is often very largely increased. The long suites of rooms have rows of cradles or little bedsteads against the wall, with babies in them, attended by nurses in a costume, the colour of which is different for each story, and there are baths and ovens, and all kinds of apparatus for the comfort and cleanliness of babydom. In one cradle we saw what looked like a pair of wax dolls. These were twins just arrived. The room in which they are received is on the ground-floor. They are generally brought in by one of the women who hang about the building outside, on the watch for some hapless mother with her burden, who hands it over to her, and, in most cases, never sees or hears more of her offspring. If the child is illegitimate, I believe that she never does see it again. If legitimate, it can be claimed within a certain period, and care is taken to keep such a register of the children, and so distinguish them, that they can be given up to the right parent. But the usual course is, to put them out to nurse in the country, amongst the peasantry. As they grow up they are sent to school, and if of the male sex to college—at least, such of them as show aptitude for learning; and, at the age of twenty-one, the responsibility of the institution, which is, in fact, the government, ceases, and they shift for themselves. Many of them become the agricultural servants of the farmers in whose houses they have been reared. There can be no doubt as to the extreme kindness and liberality with which these young unfortunates are treated, and so far it does honour to the humanity of the Russian government; but whether it conduces to social morality is another question. One good effect, however, is, that the temptation to commit the crime

of infanticide hardly exists, and, it is, I believe, extremely rare.

I had been led to believe that a knowledge of French was quite sufficient for all practical purposes in the chief towns of Russia, but I soon found that this is a mistake. In the principal shops there is generally, but by no means always, some one who understands the language; or, failing this, some one who can speak German. But in the great majority of cases it is Russian or nothing, and 'Franziski, nitt,' 'Angliski, nitt,' is the usual response to the traveller who wants to make a purchase. The only way, then, is to resort to pantomime, and carry on the conversation (?) by signs, and I thought the Russian shopkeepers rather clever in understanding this sort of dumb show. In bargaining as to price the best plan is to write down on a piece of paper what you intend to give, and walk out of the shop if it is not accepted. You will generally find yourself called back, and see the shopkeeper beginning to wrap up the article for you. Still it is a great inconvenience to travel in Russia without knowing the language of the country. One day when we were engaged to dine at the house of Mr. Michele, the English Consul at St. Petersburg, we got into a droshky at our hotel a few minutes before the hour; and after the *istvostchick* had received instructions from one of the waiters where he was to go, and had nodded assent, we set off. By and by we found ourselves in a part of the town where I felt sure the consul did not live, and our *istvostchick* was obviously driving at random in utter ignorance of his destination. But how to direct him was the question. The stock of our vocabulary was comprised in the words, *Pashol*, go on! *scorreï*, drive faster! *stoi*, stay! *na pravo*, to the right! *na levo*, to the left! and these were not enough to enable us to steer the ship to the right harbour. We made him therefore drive on until I saw a French milliner's shop, where I alighted, and asked the way to the consul's house, but *Je ne sais pas* was the only answer I could get. We then proceeded through a labyrinth of dirty streets until we came to a German wine-store, with the words *Wein Handlung* written outside. Here I again got out and asked the same question, but got the same unsatisfactory reply, *Ich weiss nicht*. It had now begun to

rain, we had no umbrellas, and the dinner-hour was long past. We next drove to an English bookseller's, where an Irish *dame de comptoir* gave us a wrong direction; and in the end we were obliged to go back to our hotel; and after getting another droschky and a less stupid Jehu, we arrived at Mr. Michele's hospitable house more than an hour after the time at which we had been invited.

Smoking is not allowed in the streets of the Russian towns, and this is, I think, a very proper regulation. Those who do not smoke generally abhor the smell of tobacco, and the extent to which the habit is carried on in the streets of London and Paris and the German towns is most annoying to the non-smoking part of the community, including, of course, a full half of the population—namely, the women.

We left Petersburg for Moscow, on Saturday, by the night express train, which performs the journey once a week in twelve hours; the other trains take eighteen or twenty hours. Not an ounce of luggage is allowed free on this line, except what the traveller can take with him in the carriage; and of course therefore the size and quantity of carpet-bags and portmanteaus which are thus taken would astonish the guards of an English railway. The carriages themselves are most commodious, and we had arranged ourselves comfortably for the night, when, after getting out at the first station for some refreshments, we found on our return, to our dismay, our sleeping-places occupied by a lady and her daughter with a mountain of furs, cloaks, and shawls. They had quitted their own compartment, and established themselves in our quarters, because there was more room to lie down. Seeing our surprise, the young lady said, in broken English, 'Pray, shentlemen, give place—my moder—she very ill.' Of course to this appeal there could be but one answer, and we were obliged to make the best we could of the remaining space. They were Poles, and bent on a melancholy journey; for a son of the elder lady was dying in a distant part of Russia, and they were hastening to meet him. On our return from St. Petersburg to Berlin they were again our fellow travellers, and I learnt something of their history. They bore the proudly historic name of Jagellon, and the mother told me that sixteen of her near relatives had either lost their lives or

been sent into exile during the late insurrection in Poland. Her sister's husband was then working in the mines at Tobolsk. She was, I believe, a widow; and she said that they were greatly reduced in fortune. As she spoke of her past happiness, and her present misery, the poor lady wept—

— Nessun maggior dolore  
Che ricordarsi del tempo felice  
Nella miseria.

While I was conversing with her in one of the carriages divided into compartments by screens, as I have before mentioned, she suddenly stopped, and said, in a very low voice, '*On nous épie.*' I looked up, and saw a man's head peeping over the top of the screen, with his eyes fixed intently on us. I said, '*Je suis Anglais, et je n'ai pas peur ;*' to which she replied, with a kind of shudder, '*Mais moi, je suis Polonoise.*' I then said, '*Nous pouvons le déjouer en parlant Anglais.*' And she tried to talk in English, but it was as difficult to follow her as if she had been Mrs. Lirriper. I cannot say that the listener *was* a spy, but he certainly looked like it, and the two ladies were terrified by his presence. I may add that her sick son had died either just before or after they had accomplished their long journey to see him, and his body accompanied us in the train, for burial, I suppose, at the family château.

The stations on the Petersburg and Moscow line are first-rate, and so are all the arrangements. The refreshments are abundant and excellent, and there is plenty of time allowed to enjoy them, and, when necessary, to wash comfortably; so that the traveller is not obliged, as in England, to scald his throat while he hastily gulps down his cup of tea or basin of soup, and hears the bell ring while he is helping himself to a slice of mutton. The line is single, but opens out into an oval form as it approaches each station, which is placed in the centre between the two lines of rails. One of my fellow travellers told me that he was once going from Moscow to Nijni Novogorod (where the line is similarly arranged), and he got out and went into a station just as a train came up in an opposite direction, and stopped at the other side. He happened to go round a table, and then by mistake got into

the wrong train, nor did he discover his error until he was approaching Moscow.

The spires and cupolas of this most interesting city, some coloured in pale green, and others flashing in gilded bronze, first appeared when we were at no great distance from the station. In Clarke's 'Travels' he thus describes his first impressions of the city at the beginning of the century:—

'Moscow is in everything extraordinary; as well in disappointing expectation as in surpassing it; in causing wonder and derision, pleasure and regret. Let me conduct the reader back with me again to the gate by which we entered, and thence through the streets. Numerous spires glittering with gold, amidst burnished domes and painted palaces, appear in the midst of an open plain, for several versts before you reach the gate. Having passed, you look about, and wonder what is become of the city, or where you are; and are ready to ask once more, "How far is it to Moscow?" They will tell you "This is Moscow!" and you behold nothing but a wide and scattered suburb, huts, gardens, pigsties, brick walls, churches, dunghills, palaces, timber-yards, warehouses, and a refuse as it were of materials sufficient to stock an empire with miserable towns and miserable villages. One might imagine all the states of Europe and Asia had sent a building, by way of representative, to Moscow; and under this impression the eye is presented with deputies from all countries holding congress: timber huts from regions beyond the Arctic; plastered palaces from Sweden and Denmark, not whitewashed since their arrival; painted walls from the Tyrol; mosques from Constantinople; Tartar temples from Bucharía; pagodas, pavilions, and verandas from China; cabarets from Spain; dungeons, prisons, and public offices from France; architectural ruins from Rome; terraces and trellises from Naples; and warehouses from Wapping. . . . Nor is the costume less various than the aspect of the buildings: Greeks, Turks, Tartars, Cossacks, Chinese, Muscovites, English, French, Italians, Poles, Germans, all parade in the habits of their respective countries.'

We drove to the Hôtel Duseaux, opposite to the *Kitai Gorod*, or Chinese city—a town within a town—surrounded by a very old battlemented wall, which might afford a defence against Tartar arrows, but could not stand a moment against



artillery. In front of our windows was a small postern in the wall, through which people were passing and repassing, like bees at the door of a bee-hive. It was Sunday morning, and we went to the English church, which we had some difficulty in finding, as it is situated in an out-of-the-way street, and has externally no appearance of a church. It is unfortunate that most English churches abroad have the same ugly unattractive appearance, and this, combined with the poverty of our ritual, as compared with the gorgeous ceremonial of the Roman Catholic and Greek Churches, must do much to give foreigners a mean opinion of our religion. After service we proceeded to the Kremlin, a walled triangular space, on an elevation hardly to be called a hill, within which are contained the Palace, the Treasury, the *Ivan Veliki*, or Tower of John, and several churches and other buildings. It was, in former times, the citadel or fortress of Moscow, but it has long been disused as a fortification, and I do not think it can boast of a single cannon: at all events, I saw none. The moat by which it is surrounded has been converted into pleasant gardens, which form a favourite promenade for the inhabitants. We entered by the *Spass Vorota*, or Holy Gate, in passing which every one is obliged to take off his hat, to do honour to a picture of unknown antiquity which hangs high up on the wall on the inside of the doorway. A sentry stands here, who would promptly enforce obedience to the custom, if a stranger were incautious enough to violate it. The first thing to do after entering the enclosure is to ascend the Ivan Tower, and enjoy the noble view which it commands. At the foot of the tower, outside, stands the gigantic monster of a bell called *Tsar Kolokol*, King of Bells, which fell crashing to the ground when the tower was burnt in 1737, and buried itself deep in the soil. A piece was 'chipped' out some six feet in length, and broad in proportion; and as the bell is now supported on masonry sunk in the ground, it forms an aperture like a doorway. It is difficult to exaggerate the beauty of the view from the top of the tower. All Moscow lies beneath the eye, spread out in picturesque confusion. It is just the opposite of St. Petersburg, where everything is regular and rectangular. What has been said of Grecian and Gothic architecture may be said of these two cities: the one is

horizontal, limited, definite ; the other vertical, aspiring, infinite. Green roofs, and glittering domes, and sky-pointing spires are scattered round in countless profusion, and the Moskva winds in a graceful curve through the city towards the Sparrow Hills, on the south-west, where Napoleon stood when he caught his first sight of Moscow in 1812. A friend of mine remarked, that he had been at Constantinople and Cairo, and that Moscow was both combined, and superior to both. This is, perhaps, an exaggeration, for there is no Bosphorus to gaze upon, but it shows the impression which a view of the city from the Ivan Tower, upon a glorious day such as we enjoyed, makes upon the traveller. Holy Moscow, as the Russians delight to call it, is very irregularly built on undulating ground, and I never was in a town where I had so much difficulty in remembering my way. The streets are badly paved, with deep kennels, and often planks of wood crossing them, over which the droshkies bump in a way which almost throws the passenger out of his seat. The fact is, that the chief traffic is in winter, when the frozen snow makes a hard and smooth road. In the *Kitai Gorod* are the two great bazaars, called Gostinoi Dhor ; the one where merchandise is sold wholesale, and the other containing retail shops. These shops are little dens, placed on each side of the arcades, and the whole reminded me of the arrangements at Berne or Chester, except that the shops do not, as in those towns, face the street, but line a vaulted corridor. The doors are fastened at night by a piece of string with a leaden seal, which in Russia has a mysterious sanctity, being under the protection of some saint, and I believe that burglaries are extremely rare. In one of the streets just inside the wall there is the most veritable Rag Fair I ever saw. I walked along it one morning before breakfast, through lines of 'old clo's' heaped upon the pavement, and had some difficulty in making my way, owing to the importunity of the Jew dealers.

Remembering the conflagration of 1812, I had expected to find in Moscow much more of the appearance of a newly-built town than is really the case. The *Kitai Gorod* in great part escaped the flames, and the Duc de Fezensac tells us, in his most interesting 'Souvenirs Militaires,' that Marshal Mortier, who remained behind when Napoleon quitted Moscow, with

orders to blow up the Kremlin and burn down everything that remained, took care not to carry out fully the barbarous command, but softened it (*adoucit*) in a manner that did honour to his heart and character. But the rest of the city, which was laid in ruins and has been rebuilt, has already an antiquated look. This may perhaps be due to the character of the architecture, which is a mixture of mediævalism and orientalism. As I have mentioned the Duc de Fezensac's Memoirs, I will quote a passage in which he describes the appearance and state of Moscow after the conflagration.

'I traversed,' he says, 'at the head of my regiment, the ruins of Moscow for the first time. It was a spectacle at once both horrible and fantastic. Some houses seemed to have been razed to the ground ; others retained some patches of wall blackened by smoke ; *débris* of all kinds encumbered the streets ; a frightful smell of burning was exhaled on all sides. From time to time a cottage, a church, a palace, appeared standing in the midst of the great disaster. The churches especially, by their domes of a thousand colours, by the richness and the variety of their construction, recalled to mind the ancient opulence of Moscow. The greater part of the inhabitants, driven away by our soldiers from the houses which the fire had spared, had taken refuge there. These miserable creatures, wandering like spectres in the midst of the ruins, and covered with rags, had recourse to the vilest expedients to prolong their wretched existence. Sometimes they devoured in the midst of the gardens some vegetables which were still found there ; sometimes they tore off strips of flesh from dead animals in the middle of the streets ; they were seen even to plunge into the river, and drag out of it the grain which the Russians had thrown into it, and which was in a state of fermentation. During our march the rattle of the drums, and the sound of military music, rendered the spectacle still more sad, by recalling the idea of a triumph in the midst of the image of destruction, misery, and death.'

Prince Gortchacow (not Gortshakoff, as the name is generally spelt in England) had been kind enough to give us letters of introduction to the civil and military governors of Moscow ; and, after we had left our cards upon them, the

military governor called on us at our hotel, glittering in stars and orders, and most courteously expressed his anxious desire to be of use, saying that he placed himself '*à notre disposition.*' Through his kindness we got access to the palace in the Kremlin when the Emperor was there, and saw the interesting ceremony of the Czar going to the Church of the Assumption, and saluting the relics there, as I shall afterwards relate. We had joined a party of Englishmen whom we met on our way from St. Petersburg to Moscow, and one of them, Mr. Michell, *attaché* at St. Petersburg, spoke Russian fluently, and was of the greatest use to us. Thanks to him, we witnessed a very amusing and curious sight. The head of the police at Moscow, Count Somebody, whose name I have forgotten, offered to exhibit the fire brigade equipped for immediate service ; and we were very glad to have the opportunity of seeing it, as the Russian fire-brigades are the most perfect establishments of the kind in Europe. We all drove to the principal station, where what are called the reserve engines and horses are kept. We went into the stables, where there were about eighty fine-looking horses ; when suddenly, without any warning, a bell rang, and the effect was electrical. In an instant the horses snorted, sprang forward in their stalls, and trembled with excitement. The courtyard swarmed with men dressed in the costume of the fire brigade—grey suits and helmets—who rushed, some to the horses, and some to the engines. We hurried out of the stables, and, in exactly three minutes from the moment that the bell rang, fourteen or fifteen fire-engines were out in the street, with the horses all harnessed, and ready to start wherever the imaginary fire might be indicated to be. They then set off in long procession, and came back at a rattling pace like a park of artillery, which at a distance they very much resembled. I observed that the last engine had upon it the words, in English, So-and-so's 'Sheffield Patent Engine ;' and I was told that the Russians by no means liked this importation, as it seemed to betoken a superiority in the foreign intruder. A telegraphic message was then sent to two other stations ordering their fire brigades to meet at a certain point, and we drove hastily towards it. Here the sight was extremely interesting. We had hardly reached the spot when we saw, descending at a gallop

a long hill in the distance, two companies of the brigade—one with horses all of a grey, and the other with horses all of a bay colour—and rapidly approaching us. At the same time a third company came up from a different direction; and the three waited at the point where we stood, and then executed several evolutions with the precision of cavalry. The horses were remarkably fine and spirited animals, and this is easily accounted for if the same law prevails at Moscow that prevails at St. Petersburg. There, if any carriage upsets, or injures another carriage, in the street, or if any passenger is knocked down, the horses of the offending vehicle are seized and confiscated to the use of the fire brigade. This had happened, a few days before we reached St. Petersburg, with the carriage of the Saxon Minister, in which his wife was driving. The horses were laid hold of, and she was ordered to alight. This, however, she refused to do, and the result was that she was allowed to drive home, but the horses were claimed nevertheless. The affair was still pending when we left Russia. I once saw a body of the brigade dashing down the Nevskoi Prospekt in the case of a real fire. It was preceded by a man on horseback holding a flag to give warning to the passengers, and clear the way.

One day I hired a droshky and drove some two miles to the outskirts of the city on the south-west, as far as the Devictchi Convent. Here I dismissed the carriage, and proceeded on foot through some low-lying alluvial ground along a muddy road to the banks of the Moskva, where there was a ferry-boat. I crossed the river, and ascended the bushy and rather steep side of the Sparrow Hills, beneath which the Moskva flows in a winding stream. When I got to the top I found a sort of summer-house, with a balcony, and near it a small *cabaret*, where I was able to procure some tea, and eggs, and bread, but no butter or milk. I sat in the balcony and enjoyed one of the most picturesque views I ever beheld. Before and beneath me lay Moscow,

Hanging in the shadowy air,  
Like a picture rich and rare.

The sun was shining brightly, and my eyes were quite dazzled with the golden effulgence of gilded cupolas and spires, espe-

cially that of the new church (I forget the name) which has been in the course of construction for years, as a memorial of the deliverance of Russia from the French invasion in 1812, and is not yet finished. I thought the sight more beautiful than even that of Rome as seen across the Campagna from the site of ancient Tusculum. Close to me were a pretty little church and churchyard, where Napoleon stood when he sent to demand the keys of the Kremlin, and received for answer that General Kutusoff, at the head of the Russian army, had got them in his pocket. The French blew up the church, but it has been rebuilt. To the left, in the distance, lay the Imperial Palace, called Petrovski, and on the plain before it shone the white tents of a large body of soldiers, not less I believe than 80,000, who were encamped there. Far off on each side stretched the immeasurable steppes, until they were lost in the horizon. My only companion in the balcony was a young Caucasian, who had been for two years a student at the University of Moscow, and spoke French tolerably well. He sighed for his native mountains, and seemed to like nothing in Russia. In the course of conversation I asked him if the women of the Caucasus were not very beautiful, and his answer much amused me. '*Mais oui,*' he said; '*une femme Caucase battrait cinq femmes Russes ;*' and he showed by the action of his arms that he meant not that a single Caucasian lady would carry off the palm of beauty, but would be more than a match with her fists for five Russians of the same sex. In returning to the town I stopped at the Devictchi Convent, and entered by the great gate, not without some misgivings that I was a trespasser, and might be summarily ejected. It is a vast enclosure, surrounded by a high battlemented wall of red brick, and the interior is something like one of the large colleges at Cambridge or Oxford, with a church and dormitories, and various other buildings, interspersed with gardens. There were a few nuns in black dresses flitting about, and I met some of them as they were returning from the town; so that it is clear they are not recluses.

One is struck in Russia with the immense number of pigeons which are seen everywhere in the towns, and which show no signs of fear. They are never eaten, being considered a sacred bird, and symbols of the Holy Ghost.

We dined one evening at a *restaurant* called the Tritskoi,

or some such name, which has the reputation of being the best in Moscow, and where Prince Alfred was entertained when he visited the city. The exterior of the house is most forbidding—hardly better than that of a pot-house—and the inside is very different indeed from the *restaurants* and *cafés* of Paris. We were a party of ten, all English, and under the guidance of Mr. Michell we had ordered a dinner at which every dish was to be Russian, and all the wines were to be Russian also. The room into which we were ushered was shabby enough, with a dirty carpet, and had an intolerably close smell until we threw open the windows, and let in some fresh air. Before dinner we had the usual *zagouski* of cheese, sardines, caviare, and other things, assisted by liqueurs of which no less than eleven bottles of different kinds stood upon the sideboard, and in the midst of them, proudly pre-eminent, was a bottle of Old Tom. The waiters were all dressed in what looked like long white *chemises* reaching down to their feet, with girdles round their waists. I cannot pretend to recollect the various dishes ; but we began with *cold* soup which would have been excellent if it had been hot. Some of the party had proposed that we should have *sterlet*, a fish from the Volga, and the most expensive in Russia ; but, on inquiry, we found that a tureen of *sterlet* soup would cost us three rubles or nine shillings a head extra, which would make the price of the soup four pounds ten shillings ; and, as we were all going to Nijni Novogorod, where we could get *sterlet* cheap, we agreed to postpone the experiment. The wines were all from the Crimea, and were called Champagne, Sauterne, and Claret. I cannot say that they were equal to their French namesakes ; but much better than I expected.

We went one night to the Hermitage, the Moscow Cremorne, to hear gipsies sing, and see them dance. These gipsies have good voices, and the melody of their song is wild and sweet. It is mentioned in Murray's Handbook that Catalani was so charmed with one of them that she took off a costly shawl that had been given to her by some King or Emperor, and threw it over the dark Bohemian's shoulders, saying that *she* was the Queen of song. Certainly that gipsy was not amongst the band that we heard. Their dances are strange enough, accompanied with a shuddering of the whole body, as if in a state of uncontrollable excitement.

An incident occurred to me while I was watching them, which I suppose could only have happened in Russia. I was in a chair in front of the orchestra, when an attendant came up to me and made signs that I must leave it. I demurred to this, for there was no other seat vacant. He then tried to force me from the chair, and I resisted, determined not to give up my place, and wondering what he could mean. A friend then told me that the man was saying that a Russian general wanted a seat, and that I must give up mine to him. I still refused, and I do not know what would have been the result, if my friend, who spoke Russian, had not interfered and pointed out a place where the general could find a seat, so that I was allowed to remain without further molestation. I am not sure that, if it had not been for this, I might not have been again arrested, and taken to a Russian guard-house.

I shall not attempt to give a *catalogue raisonné* of the sights of Moscow, but it may be interesting to mention our visit to the Kremlin when the Emperor, who had arrived the night before, was in the palace, and we accompanied him to the Church of the Assumption to see him salute the relics there—some of the holiest in Russia. Owing to the good offices of the Chamberlain of the Palace, we were admitted inside the building, which contains three of the finest and most beautiful halls in the world. They are called respectively the Halls of St. George, St. Michael, and St. Andrew. The crowd outside waiting to see the Czar pass into the church was immense. He had, however, first to go through the ceremony of receiving a deputation of the citizens of Moscow, who, according to ancient usage, invite him to eat bread with them, and are, I believe, graciously asked to partake of a banquet in return. We were placed in a gallery opposite the long stairs down which the Emperor was to descend, and here I had some conversation with a Russian lady to whom I was introduced, and she told me that she had just returned from a place some thousands of *versts* to the south-east of Moscow, where she had gone to drink mare's milk for an affection of the chest, living there in the château of a Tartar chief. She declared that the milk had completely cured her. When the Emperor appeared at the head of the stairs there was a loud *hurra*, which we must remember was the genuine cry of the



Huns in their terrible onsets, and imported amongst ourselves from the East. We descended as fast as we could to secure an entrance into the church, but the crush was terrific. I never was in such a *jam*. A lady who had hold of my arm was carried away from me, and I was forced bodily into the church, the doors of which were immediately afterwards shut. It was crowded to excess. The Emperor and his sons stood beside a pillar close to the great altar, and then began a service which lasted for more than an hour, and was, to those, like myself, who did not understand it, sufficiently tedious. Of course, there was the usual bowing and genuflexion and flinging of incense, but what struck me as most curious was the constant dressing and undressing of a venerable sightless old man, upon whom the most gorgeous vestments were put from time to time. This was blind old Philaret, the Archbishop of Moscow, upwards of eighty years of age, and said to be one of the most learned men in Russia. It seemed almost a mockery to array him in robes of dazzling gold, with a jewelled tiara upon his head. When he gave the benediction,

Raising his sightless balls to Heaven,

it reminded me of the scene of the Abbot in 'Marmion.'

As soon as the mass was over, the Emperor and his sons walked to the different chapels where the relics are kept, and reverently knelt down before them. He is a stoutly built man, and the lower part of his face is too thick, but his blue eye is clear and intelligent. Afterwards there was a review, which almost everybody but myself hurried off to see, but I was too tired to care to go, and the heat was excessive.

When we were exploring the Church of the Assumption, a few days before, there was nobody in it except a tall, fine-looking priest, who was saying mass, and an attendant, who seemed to act as a kind of clerk. Our Russian-speaking friend said he wondered whether he would stop his prayers, and show us the curiosities of his sacristy, where the paraphernalia of the priests, and some very old missals thickly studded with precious stones, are kept. I said, 'Certainly not ;' but I was mistaken. A few words were whispered into his ear, when he closed the book, and led the way into the vestry, where, after he had exhibited everything that was to be seen, we felt some

difficulty about offering him a gratuity. However, on consulting the attendant, whom I have called the clerk, he assured us that it was quite *en règle*, and the venerable gentleman, who had a magnificent flowing beard, pocketed the rubles.

Moscow is the town from which the exiles destined for Siberia often set out on foot, upon their long and miserable journey. Numbers of Poles implicated in the late insurrection were passing every week, and the English consul, Mr. Roberts, told me that he lately saw a party of Polish ladies driving droshkies through the streets of Moscow, on their way to Siberia, and apparently very merry. He said, also, that he had seen the Princess G——, a daughter of one of the noblest houses in Russia, walking on foot, with other prisoners, on the same dreary journey. But her offence was not political; she was a convicted felon. It seems that there was a shrine in Moscow ornamented with rich jewels, and amongst others a very valuable diamond. The Princess was observed to be constantly kissing the picture (I need not say that there are no images in the Greek Church), and at last she was detected in sucking out the diamond, which she got into her mouth and stole. For this she was sentenced to banishment in Siberia, where she now is. I met five or six prisoners walking along in chains, and guarded by *gendarmes*: several times people went up to them and put money into their hands, which is, I suppose, allowed. At Genoa I have seen convicts, whose red-striped caps showed that they had committed murder, working in chains and smoking cigars!

The shops at Moscow are inferior to those of St. Petersburg, and make a very poor show. The best place to purchase ornaments, and gilt salt-cellars, and spoons, which are very pretty, is the Gostinoi Dhor, where also now and then may be picked up cheap old silver drinking-cups; but I cannot say that any great bargains are to be got. Furs are very dear in Moscow, I suppose from the great demand. One that I purchased, made of Siberian squirrel-skins, called *Siberiski Bielka*, cost within a pound or ten shillings of what it would have cost in London. The best hotels are those of Duseaux and Billet and Billow. The last two are in the same street, nearly opposite to each other; but, notwithstanding the similarity of name, which often causes mistakes, neither had

'any connexion with the shop over the way.' On our return to Moscow from Nijni Novogorod, we stayed at the Hôtel Billet, which is a *pension*, and kept by Madame Billet and her sister, both of whom speak English perfectly. We found it very clean and comfortable, but not so smart as the Hôtel Duseaux, where there is a most excellent *restaurant*. Amongst the guests was a fiery-faced old Scotch Professor, who spoke in the broadest accent, and amused us by the dry caustic severity of his remarks. He had travelled far and wide over Europe, and the result of his experience seemed to be that, 'from Dan even to Beersheba, all is barren!'

The terminus of the railway that goes from Moscow to Nijni Novogorod is in the outskirts of the city, and fully two miles from the Hôtel Duseaux. As we left the paved streets, the road became very like a swamp, caused, I suppose, by the amount of traffic upon it before it had been properly 'metalled.' We left Moscow by the express train at night, and reached Novogorod next morning at nine o'clock. Of course I could only on this occasion see so much of the country as was visible at the latter end of our journey after daybreak, but, in returning, the view was reversed, for we left Novogorod at night and had daylight for the Moscow end, so that I could form a tolerable idea of the scenery through which we passed. It is very much like that between St. Petersburg and Moscow—forests of birch and fir, but with more of open country, stretching away for immense distances, and most inviting for a gallop. We passed several wooden villages, mere collections of log huts, which looked very miserable. Nijni Novogorod stands at the point of confluence of the Oka and the Volga, and the stream of the Oka was visible on our right for a considerable distance before we reached our destination. The ground is as flat as a billiard-table, and the line of railway is almost mathematically straight, but the monotony of the landscape is relieved by some high ground on the right bank of the Oka, which rises to the dignity of a range of hills until it is stopped by the Volga at the point where the Oka meets that river; and here, on the bluff or promontory that overlooks the 'meeting of the waters,' the old Novogorod, or old new town, is situated. Nijni means 'low,' and is properly applied to a straggling suburb on the other or left bank of

the Oka. It occupies part of the triangular space between the two rivers—a dead sandy flat which is constantly overflowed in winter.

When we reached the station, the first news we heard from some friends who had preceded us the day before was that there was not a bed to be got at Nijni Novogorod or the Fair. The officials employed at the station had very courteously given up their rooms to our party; and we found that six or seven of us could occupy a large chamber, perfectly clean, but of which the whole furniture consisted in a single table, without any sign of a bed. However, we were thankful to get this, and the first thing I did was to jump into a droshky, and drive with two friends along a deep sandy road to the left bank of the Oka, where there was a wooden bathing-house in the river belonging to the officers of the railway, and where we had a most refreshing swim. After breakfast we set out under the guidance of a Russian officer, who had some duty connected with the Fair, to explore the strange scene around us.

We had heard much beforehand of the devastation caused by a fire amongst the wooden huts a short time previously, and had been told that we should find half of the place burnt down; but this was a mistake. There had been a destructive fire, but hardly a trace of it remained, for the huts had been rapidly rebuilt, and business was going on everywhere as briskly as usual. It is difficult to give a correct idea of the extraordinary scene. In the middle of the Fair, reaching down to the sandy bed of the Oka, the buildings are of brick, and remain standing all the year; but on both sides of these, and behind them, is extemporised for two months a vast wooden town where the East and the West commingle in traffic, and property is bought and sold to the amount of many millions sterling. The plain on which it stands is, as I have said, a sandy level, and the streets, or rather roads, are only such as nature affords between the long rows of wooden huts. In wet weather the mud must be like that which our army had to encounter in the Crimea between Balaclava and Sebastopol, but, as it was fine and dry when we were there, the great enemy was the dust. Here is the most motley crowd that congregates on the face of the earth. 'Parthians,

and Medes, and Elamites, and the dwellers in Mesopotamia and in Judæa, and Cappadocia, in Pontus and Asia, Phrygia and Pamphylia, in Egypt, and in the parts of Libya about Cyrene, and strangers of Rome, Jews and proselytes ;' besides Turks, and Tartars, and Persians, and Bokharans, and Russians, and Frenchmen, and Germans, in every variety of costume, with hats, and caps, and caftans, and turbans, and fezzes—are busy buying and selling. The dress of the Russians is thus described by George Tuberville, who accompanied Randolph, Ambassador to Muscovy, in the reign of Queen Elizabeth :—

Their garments be not gay, nor handsome to the eye ;  
A cap aloft their heads they have, that standeth very hie,  
Which *Colpack* they do term. They weare no ruffles at all :  
The best have collars set with perle, which they *Rubasco* call.  
Their shirts in Russie long, they worke them downe before,  
And on the sleeves, with colour'd silks, two inches good and more.

There is a perfect Babel of languages, where, however, English has the worst chance of being understood by any one you may happen to meet. The shops greatly disappointed me. There was hardly an article to be seen which one would care to buy as a *souvenir* of the visit. Amongst the retail wares, ironmongery was decidedly most in vogue, and one might almost have fancied that Birmingham was transplanted to the banks of the Volga, so great was the profusion of pots and pans and kitchen utensils that everywhere met the eye. But the *somovar*, the Russian tea-urn, was the favourite article. It is sold in immense numbers to the Asiatics, and finds its way all over the East. There was abundance of trumpery, such as one sees at a fair in England ; and a few pounds would have been dearly spent in buying up the whole of many of the stores. I made one purchase, which I was glad soon to get rid of. I happened to be alone, and walked into a fur-shop, thinking that I might possibly meet with a bargain. The owners could speak nothing but 'Ruski,' of which I knew nothing. However, by means of signs and gesticulations, I explained what I wanted, and I made an investment in a double-folded fur of dazzling whiteness—the skin of some polar animal as I supposed—but certainly not of a bear, for it was far too light to have been the covering of such a brute.

In fact, I was puzzled to know what I had got, and only hoped that I had drawn a prize. I threw the purchase over my shoulder, and was nearly covered with it, exciting some surprise and laughter as I walked along, even amongst the oddly-dressed denizens of the Fair. When I reached the railway station and threw down my extempore cloak, which had almost smothered me, I found that my clothes were as white as a miller's from the powder that had come off from the fur; and it turned out to have been made up of rabbit-skins, neatly sewed together! I need hardly say that I did not bring it with me to England.

The wholesale merchandise is stored on the outskirts of the Fair, along the right bank of the Volga. The most interesting part of it is that where the tea is tested and sold. It is all brought overland from China, partly by inland water-carriage, but for the greater part of the way on the backs of horses. It is packed in bullock-skins, and each packet is about the size of a third of a bale of American cotton. It was curious to see the way in which the quality of the tea is ascertained. A *tea-smeller*, who is a thorough expert in the trade, sits on a bale, and before him a package is brought, into which a man darts a long sharp iron instrument with a hollow groove, and he draws out with it a sample of tea, just as cheese is tasted in England. The tea-smeller then puts it to his nose, and, if it is not approved of, it is put on one side as unsaleable in the market. Of course a great deal of tea is spilt in the process, but this is afterwards carefully swept together and put into packages. I went into one of the huts where the tea-accounts are kept, and where the people connected with the trade live during the Fair. It was most carefully matted, and dreadfully close. I never saw a place more favourable for fleas, but, somehow or other, I escaped an attack.

Next to the tea came the cotton from Bokhara and other parts, and after that the iron, of which there was an immense quantity, and I was weary of walking along the warehouses where it was stored. I observed some Tartars eating remarkably white nice-looking bread, just like the fancy bread of Paris; and taking a piece from one of them, I ate it, and found it most excellent. The right bank of the Volga, along

which we were then strolling, was crowded with vessels loading and unloading their cargoes, and there were one or two steamers which ply between Nijni Novogorod and Kazan and Astrachan. Some of our party were very busy in acquiring useful knowledge and filling their note-books with statistics of the trade of the Fair. I confess that I was content with filling my eye with the strange scene around me, and I am afraid that I showed a reprehensible indifference to figures, facts, and calculations. But I hold with Wordsworth :—

Nor less I deem that there are Powers  
Which of themselves our minds impress,—  
That we can feed this mind of ours  
In a wise passiveness.

One of the most characteristic parts of the Fair is the long wooden bridge across the Oka, which connects the alluvial plain with Novogorod, perched aloft on the hill that overlooks it. It is a scene of indescribable confusion. A swarm of passengers is constantly traversing it with carts, and waggons, and droshkies, and horses, and donkeys; and men are flogging, and swearing, and crowding, and jostling along it all the day. A steep road leads up from the other side to Novogorod, and near the top is an old lofty tower, which we ascended, and had a magnificent view. We could not see to the south-east, as the hill rises behind the tower and shuts out the view in that direction; but to the north-east and west the eye wanders over an immense space perfectly flat, with the Volga winding on the right and the Oka on the left, each hastening to meet the other beneath the walls of Novogorod. Below, the Fair was spread out like a map, gay with flags and teeming with life. It is a sight not to be forgotten, and it will be long before I shall 'gaze upon its like again.'

We dined at the railway station in a private room—a party of twelve—and here we tasted the famous *sterlet*, served up in soup. I must say I thought the merits of this fish by no means equal to its reputation. It is about the size of a large trout, but not equal to it, *me judice*, in flavour. Incredible prices are given for it at St. Petersburg at those periods of the year when it is difficult to obtain.

Not liking the idea of sleeping on the boards of the room given up to us at the railway station, and as all idea of beds

anywhere at Nijni Novogorod was out of the question, we determined to leave the Fair on the night of the day we arrived there, and, short as our stay was, I do not think that if we had spent a week there we should have been any the wiser, or seen anything which would have repaid us for the discomfort we must have put up with. In fact, I am bound to confess, that upon the whole the Fair was disappointing, and that by going farther we *fared* worse.

In conclusion I may say, that I know no country where the traveller finds more courtesy and civility or less annoyance than in Russia. Thanks to our letters of introduction, we received every attention, and I can only speak of it in terms of grateful acknowledgment. It would be ridiculous to attempt, after such a hasty visit as ours, to generalise on the subject of customs and manners, for the chances are that one might make the same kind of mistake as the Englishman who, on his first arrival in France, being waited upon by a flaming chambermaid, put down in his pocket-book—'*Mem.*, all the women in France have red hair.' But one must speak as one finds, and the result of my short experience is, that there is no pleasanter country in which to make an autumn tour than Russland.



## *A VISIT TO PORTLAND PRISON.*

‘Good Words,’ October, 1873.

WE have visited many prisons at home and abroad. We have been admitted by an order of the Prefect of the Seine into the interior of La Force, in the Rue de la Roquette, in Paris, where the worst malefactors are confined, and on the outside of which the guillotine is erected when capital punishment takes place. It was there that the atrocious criminal Tropmann, after being sentenced to death for the murder of the Kinck family, spent his last days. It seems to be well conducted, and the convicts are all employed in some trade ; but we were surprised to see a gang of them walking round one of the yards, and smoking cigars. This they are allowed to do for an hour in the afternoon. At Genoa, also, we saw convicts in chains smoking cigars, and were told that all those—and they were numerous—who wore red caps had committed murders. They were chiefly from Sardinia. We have seen convicts at Moscow chained together, on their way to Siberia ; and we have visited the well-known prison at Philadelphia, in the United States, where the separate and silent system is enforced. The cells are there arranged in corridors, which radiate from a common centre, so that a turnkey placed in it can see the whole of them at once. We went into several of the cells, and were allowed to converse with the inmates, who never leave them by day or night, and occupy themselves with such work as they have taste or aptitude for. In one of these cells there was a pretty little *murderess*, who had killed her husband and her paramour, and had been sentenced to twenty-three years’ imprisonment. Of these, five only had expired. She seemed to be very cheerful, and made no complaint. Being a Roman Catholic, she had ornamented her cell with a variety of religious pictures cut out of blue paper,

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and really had made it look quite gay. We asked her if she was not wearying to get out, but she declared that she was perfectly content to remain where she was. In another prison in America we saw a late member of Congress, who was convicted of some fraud or other. But we do not intend to relate in this article our experience of prisons in general, but to confine our attention to the one we have last visited—the well-known Government prison at Portland, which receives able-bodied criminals who are strong enough to work in the stone quarries, and have been sentenced to long periods of penal servitude.

Armed with an order of admission from the Secretary of State, we left Weymouth by the short railway which runs to Portland, a distance of about four miles, passing along the east side of that curious ridge of rounded pebbles called Chesil Beach, which forms a natural breakwater against the sea that rolls into West Bay, and is the western side of the narrow isthmus that connects the bold promontory of Portland with the main land. This beach runs westward for nine miles, and varies in breadth from a half to a quarter of a mile. The stones decrease gradually in size from east to west, until they become, towards the western extremity, mere pebbles and broken shingle. The village of Portland begins at the terminus of the railway, and is a long, straggling collection of stone houses, which creep up the steep ascent, crowned by the fortress and the prison. We had to wind up and round the promontory, keeping for some time to the right; and, when we reached the top, had still to walk for about a mile, until we came to the gate of the great prison. Just outside is the Governor's house, on the other side of the road—a well-built residence of stone, with a pretty flower-garden. Under the walls of the prison, and on the left side of the road as you approach, are the houses of the Deputy-Governor, the clergyman, the Roman Catholic priest, and others—all built of the stone which constitutes the whole promontory.

At the gate we presented our order of admission, and were most courteously received by the warders, who told us to wait until they took it to the Governor inside the gaol. Here we were joined by Captain S., the Deputy-Governor, who kindly consented to accompany us over the prison, and to whose

attentions we feel much indebted. We may mention that before we reached the gate, passing by a long stone wall on the left, we saw a warder or sentry standing perched above us, and tempted by curiosity we contrived to climb and peep over the wall, when we saw below a large body of convicts at work in one of the quarries. But we believe that in doing this we transgressed rules, and had a significant warning from the sentry that we must get down. On entering the prison, we saw two petrified trees resting against the wall of a block of buildings. These had been found in the quarries, and bore testimony to the existence of pre-historic vegetation in the now barren and desolate spot. The first building we explored, containing numerous cells in two stories which communicate by an open iron staircase, was of wood. It was erected many years ago, and was intended to be only temporary ; but it has not yet been replaced by stone, and we should think that there must be some danger of fire. We need not, however, say, that admirable precautions are taken, and no light is allowed in any of the cells even at night, but they are lighted by means of a little glass window looking into the corridor, *outside* of which a jet of gas is kept burning for an hour after it becomes dark. By means of this the inmate of the cell is able to read until it is extinguished. We thought the cells inconveniently small and narrow ; in fact, they are the smallest we have ever seen, and we have no doubt that when this wooden building is pulled down, more roomy accommodation will be given to the wretched prisoners. The only books allowed to be read are those of a religious character. We think that this is a mistake, and may tend to defeat the object which we suppose is in view, namely, the reformation of the prisoner ; for the mind requires variety of food as much as the body, and we fear that the *toujours perdrix* of even such a subject as religion will in the end cause weariness and disgust. In the French prison, to which we have alluded, there is a good library of miscellaneous literature, and we found on inquiry that the books most in request amongst the convicts were French translations of the works of Sir Walter Scott. The prisoners get meat only twice a week, on other days bread and tea or chocolate, and we think gruel, but we are not sure. They are entitled to a fixed weight of bread at each meal ;

and, to ensure fairness of supply, the loaves are weighed by convicts, whose duty it is when any loaf is of insufficient weight to stick on to it a small piece of bread by means of a wooden skewer, and the scales then show whether it is of the right weight. We saw convicts doing this and getting through the task with remarkable rapidity. Formerly the allowance of food was larger, and the prisoners had several unnecessary indulgences, the consequence of which was, that many of them reappeared after their discharge, sentenced for fresh crimes, and they seemed to like to return to their old quarters. At all events we were assured, that since the quantity of food has been reduced, there have been fewer returns of old 'gaol-birds' to the dreary precincts of Portland Prison. There can be little doubt that with the hard labour at the quarries and the keen air of the lofty height, the appetite of the convicts is great, and they could eat a good deal more than is provided for them. We have read of plum-puddings and feasting and theatricals in former days at Norfolk Island, but no such folly is permitted at Portland. There is enough of wholesome food to keep a man in health, and that is all. We visited the kitchen when the evening tea was being prepared, and we never saw anything more beautifully clean than the large and lofty room. The copper boilers shone like burnished gold ; one of them was full of tea, another of chocolate, getting ready for next morning's breakfast, and the smell was most savoury and inviting.

We passed the punishment cells, *all* of which were full. In these cells those convicts are placed who are refractory and break the rules of the prison by refusing to work, or committing minor offences. They are shut up all day and night, except for one hour, when each separately is allowed to walk round a small gravelled court-yard for the sake of exercise. We believe that the longest period of this kind of punishment is three weeks. But besides these there are *penal* cells for a worse class of offenders. Three prison directors come from London and try the graver cases, and award the punishment. They have the power to order a certain number of lashes to be inflicted, and we saw the bright steel triangles to which the prisoner is tied while undergoing the sentence. They were in what is called the 'punishment room,' and it reminded us of a

beautifully-kept harness-room. The convicts had arranged the handcuffs and other instruments of coercion in symmetrical order along the wall, and had formed with them the figure of a crown and the letters V.R. in honour of Her Majesty. We should have hardly expected to find the feeling of loyalty displayed in such a place, but we suppose they consider themselves emphatically the servants of the Crown—at all events they are its slaves. When a man is flogged only a few convicts, and those the worst disposed, are present, that they may see what they have to expect if they offend in like manner. Of course when any deadly crime has been committed in the prison, such as murder or attempt at murder, the culprit is tried at the assizes in the ordinary way, and may be sentenced to be hanged or to be kept in penal servitude for such time beyond the period of his original sentence as the judge may after conviction order.

The great majority of the convicts work in the quarries, and are literally 'hewers of stones,' if not 'drawers of water;' and they not only hew the stone, but build with it. The great breakwater which protects Weymouth Bay from the westerly winds and waves is the work of their hands; and they are now employed in finishing the wonderfully strong fortress called the Verne Fort, immediately contiguous to the prison, which we believe will occupy convict labour for fully eight years to come. But as everything that is necessary for this kind of work is made within the walls of the gaol, many of them are employed in the foundry or carpenter's shop. We saw them hammering the red-hot iron and casting moulds, and in fact distinguished from ordinary workmen only by the prison dress of grey cloth marked by the broad arrow, red caps and knickerbockers, and by their striped stockings, which latter, as we shall see, have more than once been fatal to their escape. We may mention that the prison is more than self-supporting, and last year there was a net balance in its favour of 3,000*l.*, after all expenses were paid. No speaking is allowed beyond such as is absolutely necessary, and while we were in the prison we did not hear a convict utter a word. Knowing what desperate characters were there, we felt perhaps slightly uncomfortable as we passed amongst them, while they wielded in their hands implements of which a single blow would cause

instant death. The whole number of prisoners at Portland at present is sixteen hundred, and there are two hundred warders—that is, one warder to eight convicts. But there is close at hand a garrison of four hundred soldiers ; and riflemen, with loaded pieces, stand here and there on the upper ground that looks down upon the yards and quarries ; so that resistance is hopeless. We wished to see Roupell, whom we had last met when he was a member of the House of Commons, and who is now employed as a dresser in the hospital at Portland. But the building was under repair, and we were told that a visit to it would not be convenient ; so that we did not get a sight of this remarkable criminal. The chapel is very large, and divided into separate compartments by wooden divisions, in each of which, during the service, sit one or two warders, on high stools, so as to have the convicts immediately under their eye. Formerly, the wives and families of the officers sat in the gallery ; but there has lately been built, outside the walls, a very handsome church of stone, for the use of these and others. The Government gave the stone and supplied the labour, the cost of fitting up of the interior being defrayed by voluntary subscriptions. Besides the large chapel we have described, there is a Roman Catholic one, which is much smaller, but large enough for the number of Roman Catholic prisoners, at present about three hundred. It is served by a priest, of whom we heard a most excellent account. We believe that his influence with one of the worst classes of convicts, namely, the Irish who have migrated to England, is very great.

The Governor of the prison is Mr. Clifton, who held some post of a similar kind formerly in Australia ; and, if we may judge from his manner and conversation, we should consider him admirably qualified for his office. He has a business room in the centre of the gaol, and there he received us and showed us several objects of interest. Amongst them are a large handsomely bound Bible and Prayer-Book, presented by the late Prince Consort as a memorial of a visit he paid to the prison. He wrote his name in one of the volumes, with an inscription in which he expressed the interest he felt in the convicts, ‘with hopes of their amendment.’ The Governor also showed us some little things that had been made surreptitiously by prisoners. One was a small statuette of Samuel

praying, executed with a common nail out of a piece of granite, and exceedingly well done. Another prisoner had picked up some pieces of metal, fused them together so as to make a kind of *æs Corinthium*, which looked just like gold, and with this he had made some very neat breast-pins, with horse-shoe tops, and a massive finger-ring. When they were discovered and taken from him he said that he had intended, when his term of sentence had expired, to sell them and endeavour to obtain a livelihood by making similar articles. We thought it a pity not to encourage such tasteful industry ; but the rules of the prison are inflexibly strict, and no convict is allowed to employ himself on any work that is not imposed by the authorities of the gaol, and this is, as we have already mentioned, the hard labour of hewing stones and building fortresses, walls, and houses. We saw also some excellent drawings on slates, done by convicts. One of them was a very remarkable head of an old prisoner, which artists have highly praised. But *omnis effusus labor*—these slates were confiscated to the State like the statuette and breast-pins. Some other objects shown to us were of a different nature. These were deadly weapons which had been used by convicts in attempting the lives of the warders and officers, and they hung upon nails by the side of a cupboard. One of them was a large heavy flint stone wrapped in a pocket-handkerchief, which had been twisted and knotted so as to form a long flexible handle, and a more formidable, death-dealing instrument we never saw. It had been found on a convict, and happily taken from him before he had an opportunity of using it. But there were heads and handles of pickaxes which had been flung at warders, and one of them had narrowly missed the head of an officer who told us the story, passing between him and a warder, as they stood near a gang of convicts at work in the quarries. Sometimes, of course, the motive for these deadly attacks is revenge, but sometimes they are prompted by mere wish for change from the dreadful monotony of prison life. A trial at the assizes, with the certainty of increased punishment, is welcomed as a relief. Not long ago a convict whose term of sentence was just expiring, and who, therefore, would very soon be a free man, attempted to kill one of the warders ; but we forget what the consequences were to himself. Another

man lately flung the head of a pickaxe at an officer whom he had never seen before, and, on being asked what possible ill-will he could bear against a stranger, he replied that he did not care who he was, but being tired of his life he was determined to kill somebody. This shows the dangers to which the prison officials are exposed; but they do their duty as fearlessly and calmly as if they were in perfect security. When a man has been convicted of any of these violent offences in prison, and is sentenced to a longer period of servitude, he is not sent back to Portland, but removed to a different gaol, which is a wise and necessary precaution. Several Roman coins and bits of pottery have been dug up in the quarries and were shown to us by the Governor—proving that Portland in ancient times had been occupied as a military station by the conquerors of the world.

Taking leave of the Governor, we passed through a large stone quarry, and met a gang of six hundred convicts returning from the Verne Fort after the labours of the day were over, who were going to their evening tea. They marched in detachments, each of which was headed by a warder carrying a truncheon in his hand, and as he passed Captain S. he touched his hat and called out, 'All right! number 20'—'All right! number 26'—or whatever the number might be of the men under his particular charge. We watched the countenances of the convicts, and are bound to say that by far the most of them were of a very repulsive type and cast, just such as one sees in the dock at the assizes, and obviously belonging to the criminal and dangerous classes of society. And yet we believe that there were amongst them at least one clergyman and one who had been a lawyer. But very properly they were not pointed out to us, and indeed not a word was spoken to or by any of us as the mournful procession stalked past. Some of the men were dressed in clothes one half of which was black and the other half grey, and this costume betokened that they had been guilty of assaults upon their warders. The proportion of the convicts to the warders here was about twenty to one, and we were thinking how soon the latter might be overpowered, when on looking up we saw riflemen posted on platforms of rock, who completely commanded the movements of the



party. And besides, it is almost impossible that there should be any combination or conspiracy, as conversation is not allowed, and it is certain that if a sudden assault were made by a few desperate characters the majority would side with the authorities from considerations of self-interest, if not a higher motive. For every convict, even those who are sentenced to penal servitude for life, may *earn* a remission of the period of his imprisonment, by getting marks for good conduct. Whatever the term may be, short of life-servitude, he can get a fourth of his time remitted by a certain number of marks, which are of course taken from him in a proportionate rate for every offence he commits in prison. In the case of life-servitude, we believe that he can work out his pardon in twenty years, but we are not quite sure about this. This is an admirable provision, and indeed without it we were assured that it would be impossible to manage the prison. To no man who enters these gloomy portals is the terrible line of Dante applicable—

Voi ch' entrate lasciate ogni speranza.

Without hope such an existence would be simply intolerable, and any kind of crimes would be committed, for death by the hangman would by many be felt to be preferable to *hopeless* misery. The great object is to hold out an inducement to good conduct, and nothing serves this so effectually as the consciousness that by behaving well the period of imprisonment will be shortened.

We believe that there have been very few cases of successful escape, by which we mean escape without recapture. But convicts have more than once contrived to get beyond the walls of the gaol. Some years ago, before the railway that connects Portland with Weymouth was in existence, the communication with the main land was by means of a ferry. A convict had got beyond the walls and managed to change his dress, but when he presented himself at the ferry he had not a farthing to pay his passage, and he therefore plunged into the water to swim across. But his stockings betrayed him. The ferryman saw them, and knew that he was an escaped prisoner. He raised a hue and cry, and the man was soon caught and taken back to his old quarters. Not

very long ago another convict contrived to make a hole in the floor of his cell, and found that there was beneath a disused air-hole which communicated with an outer court. He followed this, and eluding the observation of the warders, climbed somehow over the wall and got clear off. He then broke into a dwelling-house and stole some food, and a bottle of brandy, and cigars, and for a fortnight nothing was heard of him. But all the time he remained in Portland, and chose for his place of concealment, of all places in the world, the crypt or vault beneath the high altar of a Roman Catholic chapel, where he drank and smoked at night. He remained there, lying *perdu* in the daytime, and when it grew dark, prowled about for food. In the meantime, people remarked the offensive odour that issued from the altar, but nobody thought of examining the spot. At last, when the convict had made all his preparations for his final escape, he determined to try and leave the promontory before daybreak in the morning. But unfortunately he drank too much brandy, and overslept himself. It was just dawn when he started, and as he was passing down the hill a boy who was digging potatoes observed him pull up his trousers, and saw his stockings. He gave the alarm, and the telegraph was set to work. The man was taken in the course of the day as he was walking on the road between Weymouth and Dorchester.

Leaving the quarry where we met the gang of convicts returning from their work, we passed into the Verne Fort, which, when finished, will be one of the largest and strongest fortresses in Britain, with bomb-proof casements and covered galleries, along which soldiers can march from one point to another without being exposed to the fire of the enemy. It has been built entirely by convict labour, and will require some years yet to complete. The Royal arms over the principal gateway, however, were executed by military engineers, and it is a subject of some merriment that it is the only part of the work that seems to have been badly done; for the hind feet of the lion and the unicorn rest upon nothing, and the unhappy animals cling to the shield by their tails!

We wish that any one meditating a crime could first be

taken to Portland and see the kind of life that is before him there, if he enters it as a prisoner. Without companionship in that host of felons—in silence and in misery—he must go forth to do his daily toil with the pickaxe in his hand. The dull monotonous sound of iron hammering against stone will fall upon his ear day after day, week after week, month after month, and year after year. He must labour like a brute under the eye of his master from morn till eve, and when darkness begins to fall he must march back to his lonely cell—bare, and cold, and comfortless—tortured by the thought of the crime he has committed, and the liberty he has lost. How wearily the days must pass! How he must realise the bitterness of the curse, ‘In the morning thou shalt say, Would God it were even! and at even thou shalt say, Would God it were morning! for the fear of thine heart wherewith thou shalt fear, and for the sight of thine eyes which thou shalt see.’

————— *Quam vellent æthere in alto  
Pauperiemque pati, et duros perferre labores !*

Here, as convicted felons, have clerymen, and lawyers, and bankers, and merchants herded with burglars and murderers, and men whose whole existence has been a life of crime. No difference is made amongst them—all distinction of previous rank and station is as much lost as in the grave; the convicts are known by their numbers and not by their names, and when the gates close upon them, their past lives are buried in oblivion. They have outraged society, and society has exacted a terrible retribution.

In conclusion, we will only say that we never visited a prison more exquisitely clean and orderly than Portland, nor one where the necessary discipline seems to be more strictly kept with as much kindness as is compatible with the stern demands of duty.

## THREE DAYS IN SARK.

'Fraser's Magazine,' January, 1874.

AMONGST the Channel Islands by far the most interesting to our mind is Sark. No one who looks from the sea on its rock-bound coast, and sees before him only a lofty and apparently a desolate platform, with a solitary windmill on the highest point of the island, can form any idea of its hidden beauties, its retired dells, its exquisite coves and bays, its caves, its tunnels, and its *creux*. A flying visit in an excursion steamer, with a crowd of tourists, when the traveller goes and returns on the same day, and devotes part of it to the necessary demands of lunch or dinner, is *not* the way to see Sark. She conceals her charms like a coy beauty, and reveals them only to those who will take the trouble to explore them. We had often heard of the wonders of her caves, and the treasures of marine zoology to be found in their deep recesses; and being at Guernsey we determined to avail ourselves of the opportunity of quietly and leisurely devoting two or three days to a ramble over the little islet.

Sark lies opposite to St. Peter's Port, the capital of Guernsey, due east, and is distant about six miles. Midway between them are the two islands of Herm and Jethou, divided by a dangerous channel, which it is only safe to take in fine weather and with a flowing tide. Herm is a mile and a half in length, and half a mile in breadth, abounding in rabbits, and famous for its beach of shells on the north side, which might rival the shelly shore of Ascension Island in the Atlantic. We saw before we left London an advertisement that Herm was to be sold by public auction, but we believe that it was bought in, and has since been disposed of by private contract. The owner will have a good house there, and live the lord of a population amounting to twenty or thirty souls.

Jethou is still smaller—a mere molehill of an island—in which we think there is only one house ; and there is neither pier nor harbour, so that landing is always difficult, and sometimes dangerous. Like Herm, Jethou swarms with rabbits. A boatman told us that last year he made a contract with the owner of Herm for rabbits at 10*d.* each, and took 7,000 over to Guernsey, where he sold them for 11*d.* a piece, so that he cleared about 30*l.* by the bargain.

We crossed from Guernsey to Sark in an open two-masted boat, belonging to William Purday, whose name we gladly recommend as that of an excellent seaman and thoroughly good fellow. We had a fair breeze, but hardly enough of it, and taking the channel between Herm and Jethou made the passage to Sark in an hour and a half. We had to give a wide berth to the ugly rocks that guard the north end of the island, opposite those wonderful caves called *Les Boutiques*, of which we shall say more by-and-by. We landed at a place called *Eperqueries*, on the north-east side, having to get into a cockle-shell of a boat, for our two-masted lugger was too large to venture amongst the hidden rocks. Here a rough path leads winding up the cliff, and we reached a heathy summit, which reminded us of many parts of the west coast of Scotland, and then struck into the main road, which runs in a straight line on the top from north to south, the length of the whole island being little more than three miles, and the average breadth about a mile. There is not much to attract the eye on the surface. The fields and hedges and trees are very like those in Guernsey and Jersey, and there are the same peculiarities, namely that the fields have no gates, but only trunks of trees or logs of wood to bar the passage ; and the cattle are always tethered by a rope fastened to a wooden or iron pin, which is driven into the ground by a mallet, and forms quite an occupation for some of the maidens of the island. We may mention in passing that the breed of cows is the same as in Alderney and Jersey, and they are invariably distinguished from those of Guernsey by their black noses, while those of Guernsey are white. There is a penalty of 500*l.* for bringing any foreign breed into Jersey, and we suppose the same prohibition exists in Alderney ; but we did not visit that island, which it is not very easy to get away

from if the weather becomes rough. We followed the Sark road, and went past the church and gate of the Seigneurie, of which we will speak hereafter. We then turned to the left and descended into a wooded dell, where lies snugly ensconced amongst the trees a most comfortable little inn, called by the more ambitious name of 'Gavey's Dixcart Hotel.' There we took up our quarters and lived in clean rooms and on excellent fare. The charges were very moderate, including bed, breakfast, luncheon, and a *table d'hôte* dinner at 6 o'clock. There is one other inn in the island, called Bel Air, kept by Vaudin, which looked very clean, and is well spoken of, but it is not so prettily situated as the Dixcart Hotel. A post office lugger-boat sails every morning early for Guernsey, and brings the letters in the afternoon, together with supplies of provisions, so that there is always plenty to be had ; and we need not say that there is abundance of fish. We saw amongst the books on the table in the sitting-room a Greek *Odyssey*, with an English prose translation, from which we correctly inferred that some collegians had chosen this place for their vacation reading-party to study in. There is a charming walk down Baker's Valley to Dixcart Bay, with its stony beach walled in by lofty rocks. A large rock jutting into the sea, at high water shuts out the view on the right ; but through this rock there is a tunnel formed by nature, and passing through it we come to another little cove, which is quite inaccessible from above, as the cliffs tower up almost perpendicularly. We have sat on the pebbly beach of Dixcart Bay by moonlight, and, had we been poetical, we know no scene more likely to have inspired our muse. Happily, however, the only *afflatus* we felt was the soft breeze from the sea, and we were almost lulled to sleep by the sound of the waves rolling lazily along the shore—

Raking the rounded flints which ages past  
Rolled by their rage, and shall for ages last.

Sark is divided into two parts, Great and Little Sark, and the connecting link between them is one of the wonders of the Island. It is called *La Coupée*, and is a curious freak of nature. The sea on the eastern and western sides has here eaten into the land, so as to leave only a mere wall of earth

and rock between the two divisions of the island, and this wall, which is broader at the base, narrows towards the top until there is a space left to walk upon which is just broad enough to admit a country cart, with no wall or balustrade to protect the traveller ; and on each side there is a precipitous descent of rock for more than 100 feet, with the sea roaring like a hungry tiger for its prey. Not long ago the passage was still narrower, and not more than three or four feet broad ; but the top has either been cut down or has crumbled away, so as to leave the width we have mentioned. Even now we should not like to cross it in a gale of wind ; and a traveller we met at Sark told us that when he did so he crawled on his hands and knees. It is about 450 feet long. A story is told of a man who lived in Little Sark, and used, when he visited his friends in the northern or larger division of the island, to indulge in drinking until his legs became rather shaky. Knowing that he must pass along the Coupée, and fearful of his equilibrium, he was in the habit of trying first the experiment of walking backwards and forwards along a rusty old cannon which lay on the ground, and if he found himself steady enough to accomplish this feat without falling, he ventured to set off on his passage across the Coupée. Not very long ago another man, who was carrying a load of straw over it on a windy night, was blown away, and of course dashed to pieces. Even with its present increased breadth, we think it requires some little nerve to cross this natural bridge where there is no parapet, and hear the sea thundering below. In Little Sark, at the southern extremity, on a declivity sloping down to the rocky shore, are *les Mines*, the monument of a mining failure some years ago. A vein of silver had been discovered in the rocks by a man shooting rabbits, and a company was formed to work it ; but, what with the difficulty of drainage and other causes, the speculation was abandoned after a gallery had been driven three hundred feet under the sea, and 'Sark's Hope' has since been considered hopeless. It was melancholy to see the roofless huts and ruined walls that had sheltered the miners, and one shuddered to look down a great yawning chasm which we suppose had been a shaft, although it was almost too irregular in shape to be the work of man. Not far off there is a curious shaft of

Nature's own forming called *le Pot*, which is by no means easy of access. You come to the side of the cliff and see what by courtesy is called a path, descending in zig-zag windings through heath and bracken and brushwood until it dwindles to a mere thread, where a slip would be fatal. But the worst is to follow. The path suddenly becomes exceedingly steep, and we had some difficulty in getting down until we came to a vast round hole, separated from the shore by walls of rock, at the bottom of which is an arched tunnel, through which the sea rushes at high water, and fills a great part of the hole. When a storm is raging, it must be a grand sight to see the water seething and boiling in this gigantic pot. At low water it is possible to scramble down to the bottom; but we did not venture, for we thought we had sufficiently risked life and limb in getting to the edge and looking down. But this is nothing of a pot compared with another called *Lc Creux Terrible*, which seems to be fitly named; but we believe its proper appellation is *Le Creux Derrible*—*derrible* being an old French word for a fallen mass of rock, which has very naturally been corrupted into *terrible*. This *creux* is in a field on the east side of Sark close to the shore, and absolutely without any kind of fence or barrier. It is a huge natural shaft, or chimney, of immense size, and perfectly round, opening out on a sloping declivity, with sides of vertical naked rock, and from the most elevated part of the rim fully 150 feet deep. It made one feel giddy to look down. At the bottom there are two tunnels communicating with the shore, and through them the sea rushes when the tide flows. No power on earth could save any one who was caught there at such a time. The spray is tossed up almost to the surface when the wind is high, and we can hardly conceive a more frightful sight than to watch the water boiling and roaring in the black crater. Instead of the fury of fire, there is the fury of water; and instead of jets of flame, white foam and spray. It is not very easy to understand how it has been formed, but most probably there has been some sinking at the surface, and the sea, breaking in through the tunnels below, has gradually undermined the earth, and at last swept it away, leaving only the rocky sides that enclosed it.

On the west side of the island, facing Guernsey, there is



some grand scenery, or rather we should say that the whole of it is grand. There is the little island of Brechou or *Isle des Marchands*, separated from the *main* land of Sark by a narrow strait about eighty yards wide, called *les Gouliots*, where the tide runs furiously. The beetling rocks on each side frown upon each other, and at a little distance seem to close, and yet an English frigate in the French Revolutionary War, once when chased by two French ships of superior strength, passed safely through it. Her yards are said to have grazed the rocks on each side. The captain had got hold of a fisherman, and told him he would drown him if he did not pilot the vessel through. Here also a large East-Indiaman was dashed to pieces some years ago; but indeed the name *Isle des Marchands* is supposed to have been given to the rock from the number of merchantmen that have been wrecked there. Opposite to it are the Gouliot caves, consisting of two vaulted chambers, out of which a number of fissures open: through these the sea flows when the tide rises, and they can be only visited at low water. In one cave where we took shelter from the rain the walls were covered with sea-anemones, black, green, and blue; they cling to the rock with wonderful tenacity, soft and pulpy to the touch, and were just like half-marbles or breast-pins studding the sides of the cave in countless profusion. We never before were in such a perfect abode of the Nereids, and for aught we know those sea-nymphs use the anemones as jewels for their hair.

To the south of these caves is the lovely Havre de Gosselin, a deeply indented cove, with no semblance of a beach, where the fishermen dry their nets and place their lobster baskets on the rocks. To get down to it is not difficult nor dangerous by means of a zig-zag path, and the exquisite view well repays the trouble of the descent and the fatigue of the ascent. On the heights above stands an obelisk of granite which commemorates a sad catastrophe. One evening in October, 1868, a party, consisting of Mr. Jeremiah Pilcher, two brothers named Giffard, and Dr. Gatehouse, accompanied by a boatman named Renouf, set off in an open boat to cross to Guernsey. They were warned that it was too late to start, and the sea was dangerous, but they determined to venture. None of them were afterwards seen alive, nor was it known for some days

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that they had perished, for it was supposed that they had reached Guernsey in safety. The boat was found on the coast of France, and the body of Mr. Pilcher at the Isle of Wight; another body was cast ashore at Herm, but the three others were never found. The obelisk was erected by the widow of Mr. Pilcher, and it bears a touching inscription, with the names of the sufferers. In March, 1839, the then Seigneur of Sark, Mr. Le Pellèy, a Jurat of the Court of Guernsey, was drowned, with his boat's crew, in sight of the inhabitants off the shore, just after he had embarked for Guernsey, being caught by a gale of wind. The present clergyman of the island witnessed the catastrophe, and we were assured that he has never ventured on the water since.

A little to the north of the Havre de Gosselin is the Moie de Mouton, boldly jutting out into the sea, and separated from the main land by a narrow fissure, cleft as it were by a hatchet. The remains of a wall on each side of the abyss show that this mass of rock once formed part of the island, but by some convulsion of nature it has been torn off, and the sea rages between. There is a cave in it which is only accessible by a boat, and we did not visit it. On this rock, as there is some scanty herbage at the top, a few sheep are landed, and when the owner wants mutton he goes out in a boat and fires at one of the sheep, which if killed, rolls down the cliff into the sea and is picked up by the boat. Still farther to the north stand *les Autelets*, the Altars, two grand fantastic rocks, fit shrines for the worship of Neptune or Æolus, or whoever may be the King of Storms. A guide-book assures us that 'at their base in chaotic confusion lie gigantic blocks of every shape and hue, their surface rounded by the action of the waves; and between them are pools tinged with red, green, and purple algæ, and alive with mollusca and crustacea.' They are the favourite haunts of the sea-gulls, more so than the 'Sea-Gull Chapel,' on the east coast, which has the exact appearance of a low gable roof. It is hollow and can be visited at low water, but when the tide rises the water fills its dark recess, and no tourist or traveller can pay his orisons there.

We are now going to speak of *les Boutiques*, of which, as we carefully explored them, we shall give a more detailed description. Our party consisted of five—ourselves, Mr. and

Mrs. B., their youthful son, and a capital guide named De Carteret, an historical name in the Channel Islands, and a man whom we can most conscientiously recommend to any one who wants a *cicerone* in Sark. The caves called the Boutiques lie at the extreme north-west point of the island, and to get to them, to say nothing of getting *through* them, is a work of no small difficulty. After walking over a barren upland at the top of the cliffs we came suddenly to a turn on the left, where we were told we must descend. But where, and how? All we could see before us was an almost perpendicular descent with the sea at the bottom. However, there *was* the sign of a path, but the weather had been wet and the stones were slippery, and altogether it seemed to be a very *mauvais pas*. When half way down, Mrs. B., although one of the most dauntless climbers we ever knew, had enough of it and declined to go farther; we therefore left her to await our return, and, carefully picking our way, at last reached the bottom with the sea at our feet and lofty cliffs rising perpendicularly above us on each side. It seemed to be a complete trap—and where were the caves? On looking up towards the right we saw some twenty feet above us a large dark hole, and this was the entrance. To scramble up was no easy task, and when we reached the mouth we looked down into a dark abyss, in which were

Craggs, rocks, and knolls confusedly hurled,  
Like fragments of an earlier world.

To get up, we have said, was no easy task, but it was almost as difficult to get down. And then we had to pick our way amongst the rocks and boulders in a state of twilight darkness, until we came to a mere fissure, which our guide told us led to the cave! So that we were only in the vestibule of the rock-hewn temple which we had come to visit. We ought to mention that in addition to ourselves we had with us a dog from the inn—half spaniel, half retriever, who answered to the name of Coie, and who obviously had never entered such an infernal place before, and by his howls and perplexity caused us considerable amusement. On we went, blundering through the dark fissure until we came to a cross tunnel communicating on the left hand with the sea, and by means of this we gained a little more light. Right before us yawned a lofty cavern,

which is fully more than a hundred yards long, and at the extremity we could see the glimmering of day. This was the cavern—the veritable shop which gives *les Boutiques* their name, and if the pun may be excused we never intend to go ‘shopping’ there again. Our guide struck a light, and held a tallow candle in his hand ; but the wind soon extinguished it, and we had to prowl forward in the darkness. Huge stones, or rather rocks, constantly blocked the road, and round or over these we were obliged to grope our way, sometimes splashing into water left by the tide over shoe tops, or half way up to the knees, and expecting every moment to fall headlong into some deep pool or nasty hole. In the meantime Coie was howling piteously in our rear, and more than once our guide had to go back to lift the poor brute over some opposing obstacle which he had vainly endeavoured to climb. At last we reached the extremity of the tunnel through which we had been floundering, and had the open sea before us, with apparently no possible means of climbing up from the mouth of our prison, for the cliffs rose almost vertically on each side, and the distance between them was only a few feet. Here was a dilemma ! If we waited for the rising of the tide we should infallibly be drowned, for the sea rushes like a race-horse through the cave we had just traversed, and we had no inclination to turn back and encounter the same difficulties again. Our guide told us that we *could* get up the cliff, and he went forward to try and find the least perilous ascent, comforting us with the assurance that if we did fall, in the way he was about to show us, we should not be so much injured as if we tried to climb by what seemed to be a shorter scramble. He disappeared for a short time behind a rock, and then called upon us to follow him. We then began to cling to ledges of rock, and put our feet on projecting knobs, and sometimes lying flat on the shelving surface, wriggled forward like toads in a slanting direction upwards, until with infinite difficulty we clambered to some sloping ground which led gradually to the summit. We think a cat might have been proud of the feat, and poor Coie would certainly have failed if he had not been pulled and hauled and shoved, piteously howling all the while. We shall never forget how, as we emerged from the cave, and

he came following us, his eyes glared like demon lights in the darkness, as if they belonged to the Evil One himself.

A very different scene is the Seigneurie in the middle of the Island, the residence of the Rev. Mr. Collings, the Lord of Sark. We walked through the grounds on our way from the Gouliot caves, and were charmed with their beauty. It is quite a little Paradise, lying like an oasis amidst flowers and plants and trees, which grow there in luxuriant profusion. The house is substantially built of stone in the Tudor style and covered with creepers. We never saw levelier nor better kept gardens. The walls were loaded with fruit, peaches and nectarines and plums, and the parterres were blazing with geraniums and myrtles and fuchsias. There is an old fish-pond which once belonged to an ancient monastery, and shady walks lead down to the coast on the west. On a lawn near the house there is a miniature battery of guns, and amongst them a small brass cannon which bears the inscription *Don de la Reyne Elizabeth au Seigneur de Sark*, A.D. 1573. Certainly, whoever wished for a retreat from the world's noise and turmoil could not choose a more delightful spot. We heard that it may be bought, together with the whole island, but cannot vouch for the truth of this.

Although we landed at the Eperqueries, which means 'Harvest of dried fish,' this is not the place where the excursion steamer disembarks her passengers. That is at a fairy little harbour which has recently been constructed farther south, and is called the Creux. To get to it from the land side you have the choice of two tunnels through the rock, one of which is as old as the seventeenth century, but the other was made a few years ago to give a more convenient access to the pier. In the tiny basin, completely sheltered from the wind, lie the boats which take off the passengers to and from the steamer; that is fastened to a buoy outside. Were it not for the tunnels it would be impossible to pass from the shore into the interior, as the lofty cliffs completely enclose the bay on all sides. Sark in fact is only accessible at one or two points, and it may be said of her as truly as of Britannia that she

———needs no bulwark,  
She wants no guarded steep;

for Nature has thrown around her an impregnable barrier of rocks. A few years ago the Lords of the Admiralty intending to visit Sark were unable to find the landing-place, and actually sailed past it, without seeing the tunnel—then only one—which indicated the passage from the shore.

We do not profess to be naturalists nor versed in marine zoology, but even a traveller ignorant like ourselves of such matters must be struck with the wealth of life—half vegetable and half animal—which he finds in the caves and fissures roofed with luxuriant ferns. There are sea-anemones, and madrepores, and limpets, and carbuncles, and barnacles in profusion, and such seaweed as for size and beauty we never saw before. The colour of the sea is of the loveliest blue, now and then shading into green. As we waded through the pools of water in the dark recesses of *les Boutiques* we had an uncomfortable feeling that our leg might be seized by an Octopus or Devil-fish, such as is described by Victor Hugo in his 'Toilers of the Sea;' but no such adventure happened, and we cannot honestly say that we have ever seen an Octopus anywhere except in the Aquarium at the Crystal Palace.

Opposite, the east side of the coast of France is plainly visible, and on a clear day you can see the tops of houses and the towers of Coutances Cathedral. Between lies the long low ridge of black rocks called the Paternosters, in which there are two fishermen's huts—a dreary storm-tossed abode. The navigation of the Channel is so dangerous that few vessels attempt it unless driven there by stress of weather.

The Channel Islands are said to owe the introduction of the Christian religion to a holy man named Maglorius, afterwards known as St. Magloire, who took up his abode in Sark, and first preached the Gospel to the Pagan inhabitants.

One peculiarity in Sark, and indeed all the Channel Islands, is, that there are no field paths. But this is easily explained. There are no large proprietors, and the lands are held in small lots by a great variety of owners. This, of course, is fatal to a right of way; for if leave were given to cross one field, the traveller would be stopped at the next by a different owner, and the law against trespass is severe. While we were in Sark, an amusing illustration of this occurred. A party of tourists, four gentlemen, and two young ladies, the

daughters of a Church dignitary, unwittingly crossed a hedge, and each was called upon by a bailiff in the evening and asked to pay a fine of three *livres tournois*—equal, we believe, to fourpence. This polite request was disregarded, and the parties were cited to appear next day in the school-house before the court. The court consisted of three farmers, one of whom was the very man who owned the field where the trespass had been committed! and who thus sat as judge in his own cause. The proceedings were in Norman-French, and commenced with a prayer, after which the court was declared to be constituted. One of the accused took a legal exception to the jurisdiction, but a blue document called an *azur* (we believe the summons) was read, and the plea was overruled. The two young ladies, being under age, were let off, and the bailiff was censured for summoning minors for trespass, but the rest were fined in some small sum each, which they never paid, threatening to appeal to the Royal Court of Guernsey; and one of them crossed from Sark afterwards in the same steamer as ourselves, a fugitive from justice.

The Court of Sark consists of the Seneschal or his deputy, the Prévot, and the Greffier, who are all appointed by the Seigneur, and sworn in before the Royal Court of Guernsey. But besides this, there is another court, called the Court of Chefs Plaids, which makes ordinances for roads, rates, and police; and it is composed of the same officers as the Court of Sark, together with the holders of the forty tenements into which the island has been immemorially divided. We saw more than one painted board on which it was stated that 'the constables of Sark give notice, that any person damaging *la Coupée*, or any of the walls of Sark, will be liable to pay a penalty of 2*l*.'

The language of the Sarkois is a *patois*, but more than half of the inhabitants speak English, and all of them understand French. In Little Sark we were obliged to speak French. The men are better looking than the women, and are really a handsome race. There is one church, one Wesleyan chapel, and one windmill in the island.

The Sunday is very strictly observed, and no one is allowed even to fish on that day under pain of a fine. We believe that there is such a thing as a prison, but it is so seldom used

that when it was last wanted to lock up an offender, it was necessary to send for a blacksmith to break open the lock, as the key could not be found.

O ! fortunati nimium sua si bona norint.

In conclusion we will quote one or two passages from a letter in the 'Harleian Miscellany,' written in April, 1673, 'from a gentleman inhabiting the Isle of Serke, to his friend and kinsman in London,' and cited in 'Tupper's History.' He says of Sark :—

Yet Nature, as if she had here stored up some extraordinary treasure, seems to have been very solicitous to render it impregnable ; being on every side surrounded with vast rocks and mighty cliffs, whose craggy tops, braving the clouds with their stupendous height, bid defiance to all that shall dream of forcing an entrance. Two only ascents or passages there are into it ; the first, where all goods and commodities are received, called La Soguien. . . . the other is La Fricherée (Eperqueries), where only passengers can land, climbing up a rock by certain steps or stairs cut therein, to a vast height, and somewhat dangerously ; nor is it possible for above one person to come up at once. . . . For belly timber our three staple commodities are fish, fowl, and rabbits. . . . If all this rich fare will not content you, we have a most excellent pottage make of milk, bacon, coleworts, mackerel, and gooseberries ! boiled together all to pieces, which our mode is to eat, not with the ceremony of a spoon, but the more beastly way of a great piece of bread furiously plying between your mouth and the kettle. Both sexes on festivals wear large ruffs, and the women, instead of hats or hoods, truss up their hair, the more genteel sort in a kind of cabbage-net [anticipation of the *chignon* ?] ; those of meaner fortunes in a piece of linen, perhaps an old dishcloth turned out of service, or the fag-end of a table cloth that has escaped the persecution of washing ever since the Reformation. . . . All this, though you read it not till Michaelmas, was told you at Serke, this first day of April, O. S., 1673.

We will only add that when we left Sark and crossed over to Guernsey, we met floating on the waves the dead body of a seaman or fisherman, with the head downwards ; and it was suggestive of the perils of the navigation amidst those rocks, and tides, and currents, which guard Sark in its lonely solitude upon the deep.



*WILLIAM COBBETT.<sup>1</sup>*

I PROPOSE this evening to give you a sketch of the life, character, and writings of a remarkable man. Yet such is the vanity of human reputation that beyond the mere name little is known by the men of the present time of William Cobbett. They have heard of him as the great Radical of bygone days, and, remember that he wrote a grammar and edited the 'Weekly Register.' But the other books of which he was the author are almost forgotten, and few are familiar with the incidents of his active and turbulent life. In his recollections of a 'past life,' the late Sir Henry Holland speaks of the name and works of Cobbett as 'now nearly stranded on the stream of time, but they long exercised a powerful influence on the public mind in England,' and he says he well recollects the eagerness with which the 'Register' was looked for and read in the days of its publication. And yet Cobbett was a man whom in his early years Lord North regarded as the greatest political reasoner of his time, with whose genius Mr. Windham was in raptures, and who was so formidable a tribune of the people as to become—while he lived—something like one of the popular institutions of the country. As a writer he was one of the ablest in the whole range of the English language. Paradoxical as he was in many of his opinions and the slave of violent prejudice, he was, notwithstanding, full of vigorous common sense, and the master of a style which for sinewy strength and raciness has never been surpassed. In a series of 'Historical Characters,' published by the late Lord Dalling, better known by his former name of Sir Henry Lytton Bulwer, he includes Cobbett under the head of 'The Contentious Man;' and the

<sup>1</sup> A Lecture delivered before the Bath Literary and Philosophical Institution, December, 1873.

title is happily chosen, for no one ever had the organ of combativeness more strongly developed. No Irishman at Donnybrook Fair ever trailed his coat on the ground to provoke a fight with more eagerness than Cobbett sought to pick a quarrel with his pen. There was scarcely a single man of note in the political world whom he did not in the course of his life assail, and he sometimes contrived to fasten upon his opponent an epithet or nickname, which caught the popular fancy and stuck to him for life.

William Cobbett was born near Farnham, in Surrey, on the 9th of March, 1766. His grandfather and father were both labourers originally, but his father, by his industry and ability, had raised himself to the position of a small farmer or yeoman. He could read and write, accomplishments by no means common in those days. He had a smattering of mathematics and some knowledge of land surveying. Young William began life as a farmer's boy, and as such laid in that remarkable stock of knowledge he possessed of all that relates to agriculture, and also imbibed his passionate fondness for a rural life. At the age of sixteen, however, he was smitten by a desire to go to sea, but failed to engage a captain to take him. Next year he quitted home clandestinely and went on the top of a coach to London, where he became clerk to an attorney in Gray's Inn Lane. I suppose it was his experience in this office that caused his bitter hatred in after-life of law and lawyers, whom he sometimes calls, on account of their wigs, 'grey mare's tails,' although curiously enough two of his sons afterwards entered the profession, the one as an attorney, the other as a barrister. He soon, however, left what he designated 'an earthly hell,' and in 1784, like Coleridge at a later period, enlisted as a common soldier in a regiment intended to serve in Nova Scotia. During the period of three months, which he spent at Chatham while the regiment was waiting to embark, he made good use of a circulating library, and fell in love with the librarian's daughter. Unflinching industry and dogged perseverance were the characteristics of his nature, and at whatever he did work he worked like a horse. It is to this period and the voyage that followed it that we must refer his first study of grammar. 'I learned grammar,' he says 'when I was a private soldier on sixpence a day. The edge of my

berth, or that of the guard-bed, was my seat to study on ; my knapsack was my book-case, a bit of board lying on my lap was my table, and the task did not demand anything like a year of my life.' We shall see by-and-by that he not only learnt grammar, but wrote a grammar, of which he says, ' For me. not to say that I deem my "English Grammar" the best book for teaching this science, would be affectation and neglect of duty besides, because I know that it *is* the best.' Cobbett remained a soldier in British America for nearly eight years, and attained the position of Sergeant-Major. When he applied for his discharge on the return of his regiment to Portsmouth in 1791, he was publicly complimented by General Frederick upon his behaviour and conduct during the time of his being in the regiment, and Major Lord Edward Fitzgerald added 'his most hearty thanks.' While in New Brunswick he met and fell in love with his future wife. She was the daughter of a sergeant of artillery, and the way in which his passion was kindled is characteristic and curious. She was engaged in an occupation something like that of Nausicaa, in the 'Odyssey,' with a difference. 'It was,' he says, in his 'Advice to Young Men,' 'hardly light, but she was out on the snow scrubbing out a washing-tub. "That's the girl for me," said I, when we had got out of her hearing.' And I may mention that never did husband bestow more hearty praise upon a wife than he does upon Mrs. Cobbett in many parts of his works, and she seems to have deserved his praise. He was obliged to leave America before he could marry, but his future wife had returned to England before him, and he sent her 150 guineas—the whole of his hard-earned savings—begging her to make use of it by lodging with respectable people until his arrival. But the girl preferred to earn her own livelihood as a servant of all work, and when Cobbett came home at the end of four years and claimed his bride, she put the whole sum into his hands untouched. Well might he be proud of such a wife. But in the meantime a little episode had occurred which he tells with praiseworthy candour, as a warning to young men. During the absence of his betrothed, a colonial beauty led him astray, and we have to look at Cobbett, for the first time in his life, in the novel character of a gay Lothario. His description of the scenery

in New Brunswick where he met the bewitching charmer, is in his very best style. He says, 'If Nature in her most amiable humour had made a spot for the express purpose of captivating me, she could not have exceeded the efforts which she had there made.' It was in a log-hut by the side of a creek that the young woman lived, with her father and mother. 'On the sides of the creeks the land is in places clear of rocks; it is in these places generally good and productive. The trees that grow here, the birch, the maple, and others of the deciduous class; natural meadows here and there present themselves, and some of these spots far surpass in rural beauty any others that my eyes ever beheld: the creeks abounding towards their sources in waterfalls, in endless variety, as well in form as in magnitude, and always teeming with life, waterfowl enliven their surface, and wild pigeons of the gayest plumage flutter, in thousands upon thousands, amongst the branches of the beautiful trees which sometimes for miles together form an arch over the creeks.' The Naiad of the scene was a lovely girl of nineteen, who, to quote Cobbett again, 'had her long light brown hair nicely twisted up and fastened on top of her head, in which head were a pair of lively blue eyes, associated with features of which that softness and that sweetness so characteristic of American girls were the predominant expression.' Here then was everything to lead Cobbett captive: 'Here was the spot of all spots in the world, and here also were the life and the manners, the habits and pursuits that I delighted in; here was everything that imagination can conceive, united in a conspiracy against the poor little brunette in England. What then, did I fall in love at once with this bouquet of lilies and roses? Oh, by no means!' But he lingered and dallied and paddled his canoe to meet her, and although he never expressly told her that he loved her and never talked of marriage, yet he had a thousand times done these things by implication, 'although,' he says, 'the previous engagement was perfectly well known to her and her family.' In fact, Cobbett was in a strait betwixt two, and he admits that if he had received a cool letter from his intended wife, 'if she had but let go one of the hundred strings by which she held my heart, never would the world have heard of me on the

lovely banks of this branch-covered creek, which contained (she out of the question) everything congenial to my taste and dear to my heart. I, unapplauded, unfear'd, unenvied, and uncalumniated, should have lived and died.' But a very different fate was in store for him. The regiment was ordered home, the last parting came, and with it, says Cobbett, my just 'punishment.' As the vessel descended 'she passed the mouth of that creek which I had so often entered with delight, and, though England and all that England contained were before me, I lost sight of this creek with an aching heart.'

Cobbett married in 1792, and, having in the course of that year made a charge against some of the officers of his regiment, which at the court-martial he did not appear to support, he was obliged to quit England for France, where he remained for a few months, and then sailed for the United States and settled in Philadelphia. Why Cobbett did not appear at the court-martial has never been satisfactorily explained, but there is good reason to believe that pecuniary motives influenced him; in other words, that he was bought off. He supported himself at first in America by giving English lessons to French emigrants, and amongst the pupils was said to have been no less a person than Talleyrand. It would be difficult to conceive a greater contrast than these two men, thus strangely thrown together; the one the incarnation of *finesse*, the other the personification of outspoken bluntness, if not sincerity. According, however, to Cobbett's own statement, Talleyrand came to him and wished to become his pupil in English, but he refused to take him on any terms. He calls him 'the modern Judas,' and says that, in answer to his flattery, 'I gave him to understand that I was no trout, and consequently was not to be caught by tickling.'

I hold no brief as counsel for Cobbett, and against the charge of inconsistency his warmest advocate would find it difficult to defend him. Those who remember only how, when he was soured by what he considered neglect and ill-usage in England, he lauded to the skies the blessings of America, will be surprised to learn that during, and for some time after, his first visit to the States he abused the country and its institutions as heartily as he subsequently praised them. He was now an enthusiastic Royalist, and ready to do battle with Democrats like Priestley

and Paine. When Priestley came over to America, and was received there with enthusiasm, Cobbett, under the name of Peter Porcupine, attacked him in a pamphlet called 'Observations on Priestley's Emigration,' which made a noise at the time, and may be considered as the first of his famous onslaughts on political opponents. He set up a bookseller's shop in Philadelphia, and filled its windows with prints of George III. and the British aristocracy, the like of which had never been publicly exhibited in the United States since the beginning of the American war. This was like trailing red cloth before a wild bull, and the Republican newspapers were full of articles, and the Republican shops teemed with pamphlets, headed, 'A Blue Pill for Peter Porcupine;' 'A Roaster for Peter Porcupine;' 'A Picture of Peter Porcupine.' Cobbett was just in his element. 'Dear father,' he wrote home, 'when you used to set me off to work in the morning, dressed in my blue smock-frock and woollen spatterdashes, with a bag of bread and cheese and a bottle of small beer over my shoulder, little did you imagine that I should one day become so great a man.' He engaged in a squabble with a rival editor named Bailie, a grandson of Benjamin Franklin, and meeting him one day in the street and being abused by him, retorted by a blow, which laid his opponent sprawling in the gutter. He published a pamphlet, called 'The Trial of Republicanism,' in which he exposed the evils of Republican Government, and assailed it with some of his choicest terms of abuse. The following passage will give an idea of its tone and spirit:—'Men of sense know that the people can, in reality, exercise power which will not tend to their own injury. Hence it is that in states, when the popular voice is unchecked by royal or other hereditary control, that voice, in nine times out of ten, is given in favour of those fawning parasites who rule the poor sovereign, who has chosen them, with a rod of scorpions, affecting, while the miserable wretch is writhing under their stripes, to call themselves "his representatives."' He called Wilkes 'a miserable adventurer, without ancestry, without fortune, without anything but impudence, obscurity, and blasphemy to recommend him.' Having as he thought demolished Priestley, Cobbett next turned upon Paine who had landed in America, and, avowing Republican principles, was then wor-

shipped as a popular idol. This of course made Cobbett himself unpopular, for which he little cared ; but an attempt was made to crush him by instituting a prosecution against him on a charge of wholesale libel, founded upon the general character of his writings, and he was obliged to enter into a recognisance fee for his good behaviour, to the amount of 4,000 dollars. He narrowly escaped prosecution for a libel against the Spanish minister at Washington, the bill being ignored by the grand jury by a majority of one, and he was only saved by the opinions of the Attorney-General from being turned out of the United States, under the 'Alien Act.' At last, however, he was caught. A doctor Rush had come into public notice by prescribing a system of purging and bleeding as a remedy for the yellow fever, and Cobbett assailed him with his usual violence. He asked, 'Can the *Rush* grow up without mire, or the *flag* without water?' and the way he answered the question led to a prosecution for libel, in which he was convicted and sentenced to pay a fine of 5,000 dollars.

Cobbett now thought it prudent to leave this land of liberty for England, and on June 1, 1800, he decamped from America, which he called 'that infamous land where judges become felons, and felons judges.' We shall soon see how he changed his note afterwards. Cobbett returned to this country disgusted with the United States, and, if he had met with a different reception, he might and indeed certainly would have been a powerful auxiliary on the side of the Government. I quite agree with Lord Dalling that the ministry made a great mistake in not enlisting so sturdy a champion in the ranks of its supporters, but he was left in the cold shade and obliged to shift for himself without any aid from patronage or power. Mr. Pitt is said to have treated Cobbett with coolness one day when he met him at Mr. Windham's, and thus a private grievance was added to what he thought a public wrong, but I am bound to add that there is some doubt as to the truth of the meeting at all. One version is that the haughty minister refused an invitation to dinner at Mr. Windham's because Cobbett was to be one of the guests, but he distinctly asserts the contrary in different parts of his works. For instance, he says in his 'Year's Residence in America,' 'I had dined the day before at the Secretary of State's in company with Mr. Pitt, and had

been waited upon by men in gaudy liveries.' He did not, however, at once go into opposition. He started a paper called the 'Porcupine,' and his programme was one to which the Tories could not object. 'The subjects of a British King,' he says, 'like the sons of every provident and tender father, never know his value till they feel the want of his protection. In the days of youth and ignorance I was led to believe that comfort, freedom, and virtue were exclusively the lot of Republicans. A very short time convinced me of my error, admonished me to repent of my folly, and urged me to compensate for the injustice of the opinion which I had conceived. Once more returned, once more under the safeguard of that Sovereign who watched over me in my infancy, and the want of whose protecting arm I have so long had reason to lament, I feel an irresistible desire to communicate to my countrymen the fruit of my experience, to show them the injurious and degrading consequences of discontent, disloyalty, and innovation; to convince them that they are the first as well as happiest of the human race, and above all to warn them against the arts of those perfidious and ambitious demagogues who would willingly reduce them to a level with the *cheated slaves* in the bearing of whose yoke I had the mortification to share.' Surely this was a writer whom it was worth while to conciliate, especially at a time when discontent was so rife and when, I will add, there was both in the social and political world of England so much to justify discontent. But of this I will speak afterwards. I will here only remark in passing that however Cobbett might in later years attack the Government of the day, and pour forth a flood of abuse, such as he alone could command, upon individual ministers, he never swerved from his monarchical faith, and to the last was utterly opposed to the idea of a Republic in England. He says, in his 'Rural Ideas,' written in the years 1831-1832, 'I repeat, and with perfect sincerity, that it would give me as much pain as it would to any man in England to see a change in the form of government. With King, Lords, and Commons this nation has enjoyed many ages of happiness and of glory;' and again, in his 'History of the Protestant Reformation,' 'I must (though it has nothing really to do with the question before us) repeat my opinion, many times expressed, that we should lose more



than we should gain by getting rid of our aristocracy. The basest and most corrupt Government I ever knew or heard anything of is the Republican Government of Pennsylvania, and withal the most truly tyrannical, base, and corrupt from bottom to top, from the root to the topmost twig, from the trunk to the extreme point of every branch.' Hear this, Odger, Bradlaugh, and Sir Charles Dilke! 'I am not, therefore,' he adds, 'for Republican Government, and then it follows that I am for an aristocracy, for without it there can be no limit to a kingly Government.'

In 1801 Cobbett opened a bookseller's shop in Pall Mall, in partnership with a person named Morgan, and adopted as its sign 'The Crown, Bible, and Mitre,' to indicate the principles which they intended to maintain. When Pitt in that year resigned office, because the king refused to consent to a measure of Catholic emancipation, Cobbett rushed into print, and avowed his difference of opinion with a minister 'whose character and conduct,' he said, 'he had voluntarily defended at the expense of his peace and property, and not unfrequently at the hazard of his life.' This alluded to his experience in America. He published a life of Tom Paine, and a collection of the works of Peter Porcupine, in twelve octavo volumes, stigmatising in his preface Washington as a rebel and the American revolutions as rebellion against the most just of sovereigns. Rather than illuminate for the Peace of Amiens, Cobbett allowed his windows to be smashed by the mob, and when three persons were in consequence convicted of a riot, and the jury recommended them to mercy, on their counsel asking Cobbett to join in the recommendation, he bluntly answered, 'Certainly not, sir; I came here to ask for justice and not mercy.' Giving up the 'Porcupine' he brought out a new paper, called the 'Weekly Political Register,' which soon became famous for the vigour of its articles and its violent and indiscriminate abuse. Müller, the German historian, called his letters to Hawkesbury and Addington 'the most eloquent writing since the time of the two great professors of Philippic oratory.' But though many of its attacks, especially at a later period of its existence, would be thought violent even now, the worst of them were hardly such as deserved the notice of His Majesty's Attorney-General, and those which were selected for the disagreeable compliment

would now be thought as mild as milk and harmless as water. Some letters, under the signature of 'Juverna,' which appeared in the 'Register' in November and December, 1803, discussed the question of the Government of Ireland, of which the Earl of Hardwicke was Lord Lieutenant. The writer compared the Irish Administration to the Wooden Horse of Troy, which contained within its womb all the elements of mischief, and spoke of Lord Hardwicke in terms which I should have thought no perverted ingenuity could twist into a libel. 'But who,' he asked, 'is Lord Hardwicke? I have discovered him to be in rank an earl, in manners a gentleman, in morals a good father and a kind husband; and that, moreover, he has a good library in St. James's Square. From Mr. Lindsay I further learned that Lord Hardwicke was celebrated for understanding the mode and method of fattening sheep as well as any man in Cambridgeshire.' And for this most innocent kind of joke, if joke it can be called, or *sarcasum*, to use the expression of Artemus Ward, Cobbett was found by the verdict of a jury 'guilty of having attempted to subvert the king's authority.' Another letter, signed 'Juverna,' applied the term 'viper' to Plunkett, who was the Solicitor-General for Ireland, with reference to his speech on the prosecution of Emmett, and the writer said that 'Lord Kenyon would have turned with horror from such a scene, in which, if guilt were in one part punished, justice in the whole drama was confounded, humanity outraged, and loyalty insulted.' This brought down another prosecution, and the result was another verdict against Cobbett. But he was not the writer of the letters; the real author was a Mr. Johnson, who afterwards became a judge; and, as his name was discovered, Cobbett was not further molested. When the Whig Ministry of All the Talents in 1806 proposed an increase of allowance to the king's younger sons, Cobbett opposed it in his paper, and declared himself against the 'cheese parings and candle ends' of Royalty. 'I am,' he said, 'against these things, not because I am a Republican, but because I am for Monarchical Government, and consequently adverse to all that gives Republicans occasion for sneering at it.' At the same time he commenced the laborious undertaking of his 'Parliamentary Register,' which contains the proceedings of Parliament from the earliest time, and is a most useful book of reference.

But evil days were before him, and the whole complexion of his life was about to be changed by an act of the Government, invoking the terrible powers of the law, of which, in these times of free discussion and liberty of the press, it is difficult to speak with ordinary patience. I am certainly not going to defend Cobbett against the charge of being a reckless assailant of persons, and I admit he was the greatest master of abusive language, not even excepting Cleon and O'Connell, that ever appeared amongst the sons of men. But we must, in common fairness and justice to him, remember that the England of his day was very different from the England of our own. It is difficult to realise how great this difference is. Old Sarum, Gattton, Wootton Bassett, and a host of miserable villages, were the pocket boroughs of rich proprietors, while Manchester and Birmingham, Sheffield and Leeds were unrepresented in Parliament. So wretched and ruinous were some of these places that we can scarcely wonder at Cobbett exclaiming in his rural rides, 'God's curse seems to be upon most of these rotten boroughs.' I do not know that Calne, which still returns a member to the House of Commons, has much improved since his time, when he thus speaks of it: 'I could not come through that villanous hole, Calne, without cursing corruption at every step, and when I was coming by an ill-looking place, called the town-hall, I suppose I poured a double dose of execration upon it.' The state of our criminal law was simply infamous. It was a capital offence to pick a pocket, steal a sheep, or cut down a young apple tree. Non-residence and plurality of livings amongst the clergy were rather the rule than the exception. 'There is a parliamentary return,' says Cobbett, writing in 1826, 'to prove that nearly a third of the parsonage houses in Wiltshire have become beggarly holes or have disappeared.' The poor law was so badly administered by a weekly system of out-door relief and by being made a kind of supplement to low wages, that it proved a curse, and the law of settlement was so worked as to become an engine of torture to the poor. The pension list was loaded with the names of titled sinecurists, and the case of Mrs. Clark, at a later period, revealed the corruption which was festering in high places. It was dangerous for a writer, who wished for reform of these things, to meddle with them unless he was ready to face fine

and imprisonment. The law of seditious libel was no rusty weapon, but a sharp-cutting sword in the hands of the Attorney-General of the day, and so Cobbett found to his cost. A paragraph appeared on July 1, 1809, in the 'Courier Newspaper,' stating that 'the mutiny amongst the local militia, which broke out at Ely, was fortunately suppressed on Wednesday by the arrival of four legions of the German Cavalry from Bury, under the command of General Auckland. Five of the ringleaders were tried by a court-martial, and sentenced to receive 500 lashes each, part of which punishment they received on Wednesday and part was remitted. A stoppage of their knapsacks was the ground of complaint which excited the mutinous spirit and occasioned the men to surround their officers and demand what they deemed their arrears.' On this Cobbett wrote and published the following remarks in the 'Register':—'Summary of politics, local militia, and German Legion. See the motto, English reader, see the motto, and then do pray recollect all that has been said about the way in which Bonaparte raises his soldiers. Well done, Lord Castlereagh! This is just what it was thought your plan would produce. Well said, Mr. Huskisson! It was really not without reason you dwelt with so much earnestness upon the great utility of the foreign troops, whom Mr. Wardle appeared to think of no utility at all. Poor gentleman, he little thought how great a genius might find employment for such troops; he little imagined they might be well the means of compelling Englishmen to submit to that sort of discipline which is so conducive to producing in them a disposition to defend the country at the risk of their lives. Let Mr. Wardle look at my motto and then say whether soldiers are of no use. Five hundred lashes each! Aye, that is right! flog them! flog them! flog them! they deserve it, and a great deal more! They deserve a flogging at every meal time—Lash them daily! lash them daily! What! shall the rascals dare to mutiny, and that, too, when the German Legion is so near at hand! Lash them! they deserve it!—Oh yes! they deserve a double-tailed cat! Base dogs! what, mutiny for the sake of the price of a knapsack! Lash them! Flog them! Base rascals! Mutiny for the price of a goat-skin, and then upon the appearance of the German soldiers they take a flogging as

quietly as the trunks of trees !' For this article Cobbett was prosecuted by the Attorney-General, Sir Vicary Gibbs. I will give his own account of the trial, and its results, as told by himself in his 'Advice to Young Men.' 'The Attorney-General, Gibbs, was set upon me; he harassed me for nearly a year, then brought me to trial, and I was by Ellenborough, Le Blanc, and Bailey sentenced to two years' imprisonment in Newgate, to pay a fine to the king of 1,000*l.*, and to be held in heavy bail for seven years after the expiration of the imprisonment: every one regarded it as a sentence of death. I lived in the country seventy miles from London. I had a farm on my hands; I had a family of small children, amongst whom I had constantly lived; I had a most anxious and devoted wife, who was, too, in that state which rendered the separation more painful tenfold. I was put into a place among felons, from which I had to rescue myself at the price of twelve guineas a week for the whole of the two years.' The farm of which Cobbett here speaks was at Botley, near Southampton, and he elsewhere describes how when 'the news arrived at Botley, the three boys, one eleven, one nine, and the other seven years old, were hoeing cabbages in that garden which had been the source of so much delight.' But he bore it manfully; his wife and children from time to time visited him in prison; a hamper was sent once a week or oftener from Botley bringing 'fruits and all sorts of country fare, and always every one sent his or her most beautiful flowers, the earliest violets and primroses and cowslips, the earliest twigs of trees, and in short, everything that they thought calculated to delight me.' But what he prized most in the hamper were his children's 'little spudding letters,' to each of which he always made a point of returning a punctual answer. He also, by means of a journal written by his sons, was kept *au courant* as to all that was going on at Botley, and was able to carry on his farm and give his orders—from his gaol in Newgate—almost as well as if he were roaming amongst his own corn-fields.

Cobbett emerged from prison a changed man. He was become a political Ishmael, whose hand was against every man, if every man's hand was not against him. Charity and forgiveness of injuries were no part of his creed, and he

turned fiercely upon his foes 'without,' as he says, 'caring a straw on whom their fall might bring calamity, so that my own family were safe, because, say what any one might, the community, taken as a whole, had suffered this thing to be done unto me.' In his 'Rural Rides' he exclaims, 'Let the reptiles perish; it would be injustice, it would be to fly in the face of morality and religion, to express sorrow for their ruin.' And in his 'Advice to Young Men,' 'Oh! how I despise the wretches who talk of my vindictiveness, of my exultation at the confusion of those who inflicted those sufferings. How I despise the base creatures, the crawling slaves, the callous and cowardly hypocrites who affect to be shocked (tender souls) at my expressions of joy at the death of Gibbs, Ellenborough, Perceval, Liverpool, Canning, and the rest of the tribe that I have already seen out, and at the fated workings of that system for endeavouring to check which I was thus punished! How I despise these wretches, and how I above all things enjoy their ruin and anticipate their utter beggary! What! I am to forgive, am I, injuries like this, and that, too, without any atonement? Oh, no! I have not so read the Holy Scriptures; I have not from them learned that I am not to rejoice at the fall of unjust foes, and it makes part of my happiness to be able to tell ten millions of men that I do thus rejoice, and that I have the means of calling on so many just and merciful men to rejoice along with me.' And yet it would be wrong to consider Cobbett an ill-natured man. No one cherished more warmly the affections of home and family, and no one could speak of babies as he did who had not in him much of the milk of human kindness. It was said of Paley, who was rough and coarse in manner, that the way in which he writes of little children proves the kindness of his heart; and Paley never expressed himself about them with half the warmth of Cobbett. He says, 'The man, the woman, who is not fond of babies is not worthy of the name; but where is the man who does not feel his heart soften, who does not feel himself become gentler, who does not lose all the hardness of his temper, when in any way, for any purpose, or by anybody, an appeal is made to him on behalf of those so perfectly helpless and so perfectly innocent little creatures?'

Cobbett's release from prison was celebrated by a dinner, at

which Sir Francis Burdett, 'Old Glory,' as in derision he afterwards christened him, was in the chair. He published at unequal intervals, to escape the stamp duty, a series of papers called 'Twopenny Trash,' and became so formidable a writer that he was able to boast with perhaps some truth that the suspension of the *Habeas Corpus* Act, and the passing of the Six Acts in 1817, were more directed against himself than against all the other political enemies of the Government put together. But he had got heavily into debt, caused chiefly by the reckless way in which he printed and published books and pamphlets. This sufficiently accounts for his hasty flight to America, but he pretended that it was owing to the suspension of the *Habeas Corpus* Act and his dread of Sidmouth and Castlereagh. He had borrowed large sums of money from friends, among whom was Sir Francis Burdett. These he had no means of paying, and as he had had enough of imprisonment, and the law against insolvent debtors was then terribly severe, he suddenly left England in 1817 and took refuge in the United States, coolly telling his creditors that, as they had not resisted the persecutions from which his losses had arisen, they were in no small degree responsible for them, and must be prepared to share the consequences. We have seen in what contemptuous terms he had spoken of Republican America during and after his first visit there. But now he was sick of England, and saw everything in the land of his adoption with totally different eyes. Throughout his later writings he is never weary of contrasting the two countries, and always to the disadvantage of the latter. While living at a farm he had taken on Hampstead Plains, Long Island, Cobbett wrote his 'English Grammar,' that 'famous Grammar,' as he calls it, which is certainly the clearest and cleverest and most amusing book on the subject. He of course was not afflicted with any false modesty, and he especially prides himself upon his knowledge of the subject. 'How many false pretenders,' he says, 'to erudition have I exposed to shame by my knowledge of grammar! How many of the insolent and ignorant great have I pulled down and made despicable! and with what ease have I conveyed upon numerous important subjects, information and instruction to millions now alive, and provided a store of both for

millions yet unborn!' But for a man to whom strife and contention were alike the breath of life, and who above all things courted notoriety, he was in a false position. As Lord Dalling says, 'He was not even taken up as "a lion," for his sudden preference for Republican institutions created no sensation amongst men who were now all heart and soul Republicans. He was not a hero, and he could not consistently with his present doctrines attempt to become a martyr.' He began to sigh for England, and, in order to return there with some *éclat*, he actually had the bones of Tom Paine disinterred, intending to carry them across the Atlantic. He had formerly stigmatised Paine as 'the greatest disgrace of mankind, an infamous and atrocious miscreant,' but he was now 'the great enlightener of the human race, and the boldest champion of popular rights.' At last, to quote the words of Lord Dalling, 'After vainly offering locks of hair or any particle of the exhumed Atheist and Republican at a low price, considering the value of the relics, he let the matter drop . . . and the inestimable fragments of the disinterred Quaker suddenly disappeared, and were never heard of more.'

Cobbett returned to England and tried to get into the House of Commons. He stood first for Coventry, and then for Preston, but was on both occasions unsuccessful. We ought, however, to mention that he made a previous attempt in June, 1806, when he offered himself for Honiton, but did not go to the poll as Lord Cochrane arrived and became the popular candidate. I need not say that his failure was not due to any difficulties on his part, or want of self-appreciation. Addressing his supporters when Parliament was dissolved, at the demise of George III., he said, 'To you I do and must look for support in my public efforts. As far as the press can go I want no assistance; aided by my sons I have already made the ferocious cowards of the London press sneak into silence. But there is a larger range, a more advantageous ground to stand on, and that is the House of Commons. A great effect on the public mind I have already produced, but that is nothing to what I should produce in only the next session in June in the House of Commons. Yet there I cannot be without your assistance.' He had to wait for the days of the Reform Bill, when he was



returned to Parliament for the borough of Oldham, and thus Cobbett represented one of those manufacturing towns of which he had always previously spoken with abhorrence and contempt. But in the meantime his pen was as active as ever, and besides the 'Register' he wrote his 'Cottage Economy,' 'Sermons,' 'Rural Rides,' and the 'History of the Protestant Reformation,' of which I will speak hereafter. Frequent allusion is made in Cobbett's works to the *gridiron*, and an engraving of this useful culinary instrument was placed at the head of the later numbers of the 'Register.' The origin of it was this. When he was resident in Long Island in 1819, he published a letter to Lord Folkestone in which he attacked the Currency Bill of the first Sir Robert Peel, and with respect to his prophecy that the Bank of England would be able, without any reduction of the debt, to pay in specie, he declared, 'If she does, I will give my poor body up to be broiled on one of Castlereagh's widest-ribbed gridirons.' And again, 'I will give Castlereagh leave to lay me on a gridiron and broil me alive, whilst Sidmouth may stir the coals, and Canning stand by and laugh at my groans.' Not satisfied with being farmer, author, editor, and pamphleteer, he opened a butcher's shop at Kensington, and soon after closed it by an act of bankruptcy. During the incendiary 'swing fires' an article appeared in the 'Register,' which again attracted to Cobbett the notice of the Attorney-General. He was prosecuted for a seditious libel, but, as the jury were unable to agree, the result this time was an acquittal, and shortly afterwards he was able to write M.P. after his name. I have myself, when a very young man, seen him in the House of Commons, but I prefer to borrow the description given of him by Lord Dalling, who sat in the same Parliament with him. He calls him 'an elderly, respectable-looking, red-faced gentleman, in a dust-coloured coat and drab breeches, with gaiters, tall and strongly built, but stooping, with sharp eyes, a round and ruddy countenance, smallish features, and a peculiarly cynical mouth. He realised pretty nearly the idea that might have been formed about him.' He did not pretend to eloquence, and his style of speaking was 'colloquial, bitter, with a dry caustic and rather drawling delivery.' Still no other instance exists, and perhaps no other instance will ever

exist, of a man entering the House of Commons at seventy-six years of age and immediately taking his place as one of the best debaters in it. His most noteworthy exploit was his motion praying the king to strike the first Sir Robert Peel's name out of the list of members of the Privy Council, on account of his Currency Bill of 1819, which motion was rejected by a majority of 298 to 4. In 1834 he was again elected member for Oldham, but his career was now drawing to a close. On the night of the 11th of June, 1835, he was seized, while in the country, with a violent attack of water on the chest, and died a few days afterwards, peacefully shutting his eyes as if to sleep.

Such was the life of William Cobbett, the 'contentious man,' as Lord Dalling calls him. But it is worth while to quote his own epitome of that life which he gives in the introduction to his 'Advice to Young Men,' to show how well qualified he was for the task he then undertook. 'Thrown (by my own will indeed) on the wide world at a very early age, not more than eleven or twelve years, without money to support, without friends to advise, and without book-learning to assist me, passing a few years dependent solely on my own labour for my subsistence, then becoming a common soldier and leading a military life chiefly in foreign parts for eight years, quitting that life after really, for me, high promotion, and with, for me, a large sum of money, marrying at an early age, going at once to France to acquire the French language, thence over to America, passing eight years there, becoming bookseller and author, and taking a prominent part in all the important discussions of the interesting period from 1793 to 1799, during which there was in that country a continued struggle carried on between the English and the French parties, conducting myself in the ever active part which I took in that struggle in such a way as to call forth marks of unequivocal approbation from the Government at home, returned to England in 1800, resuming my labours here, suffering during these twenty-nine years two years of imprisonment, heavy fines, three years self-banishment to the other side of the Atlantic, and a total breaking of fortune so as to be left without a bed to lie on ; and, during these twenty-nine years of trouble and punishment, writing and publishing every week of my life—whether in exile or not, eleven weeks only

excepted—a periodical paper containing more or less of matter worthy of public attention; writing and publishing during the same twenty-nine years a “Grammar” of the French and another of the English language, a work on the “Economy of the Cottage,” a work on “Forest Trees and Wood Lands,” a work on “Gardening,” and an “Account of America,” a book of “Sermons,” a work on the “Corn Plant,” a “History of the Protestant Reformation,” all books of great and continuous sale, and the last unquestionably the book of greatest circulation in the whole world, the Bible only excepted, having during these same twenty-nine years of troubles and embarrassments without number, introduced into England the manufacture of straw-plait, also several valuable trees, having introduced during the same twenty-nine years the cultivation of the corn plant, so manifestly valuable as a source of food, having during the same period, always, whether in exile or not, sustained a shop of some size in London, having during the whole of the same period never employed less on an average than ten persons in some capacity or other, exclusive of printers, bookbinders, and others connected with papers and books, and having during these twenty-nine years of trouble, embarrassments, prisons, fines, and banishments, bred up a family of seven children to man’s and woman’s state.’

Cobbett’s opinion of himself and his own powers soared far beyond ordinary vanity, and his works are full of the most downright assertions of self-importance and conceit. Thus, to quote only one. In describing a particular sand-hill in Surrey or Hampshire, down which he used to roll in a smock-frock when a boy, and where he received the rudiments of his education, he says, ‘I am perfectly satisfied that if I had not received such an education or something very much like it, that if I had been brought up a milksop, with a nursery-maid everlastingly at my heels, I should at this day have been as great a fool, as inefficient a mortal, as any of those frivolous idiots that are turned out from Winchester and Westminster Schools, or from any of those dens of dunces called colleges and universities. It is impossible to say how much I owe to that sand-hill, and I went to return it my thanks for the ability which it probably gave me to be one of the greatest terrors to one of the greatest and most powerful bodies of

knaves and fools that ever were permitted to afflict this or any other country.' The next quotation I shall give can hardly be called a proof of vanity, but it is an amusing indication of the character of his mind. Speaking of American fire-places he had introduced into England, he says, 'This is another of what the malignant persons call "Cobbett's quackeries" . . . but, really, coming to conscience, no man ought to sit by one of these fire-places that does not go the full length with me in politics and religion. It is not for them to enjoy the warmth without subscribing to the opinions of the giver of the warmth.' One characteristic of Cobbett's style, and I think a faulty one, is the constant use of italics to emphasise his meaning. This is also the case with Archbishop Whately, than whom no writer ever expressed himself more clearly. But I think that italics, except in rare cases, are mistakes. The collocation of a sentence ought to be such as to point out the proper emphasis of the word which the writer intends, and ought not to require the aid of finger-posts to direct the reader in the right path. Besides, the page is disfigured by the frequent change of type. Nothing corresponding to the use of italics was known to the authors of Greece and Rome, and I feel certain that Cicero never would have thought it necessary to underline a word if he had written in English. But for examples of homely vigorous Saxon English I hardly know any writer who can be compared with Cobbett, and he hits with the force of a sledge-hammer, or, to vary the simile, I may liken his style to that of an Indian swinging his tomahawk in the air and scalping his victims while he dances round them in an ecstasy of rage. I need not say that Cobbett was a hearty hater. I remember Hartley Coleridge once saying to me that he wished some one would write a poem on 'The Pleasures of Hate;' and nobody could have done this like Cobbett, if he had possessed enough poetic skill to manage the metre and the rhyme: His 'grammar' is not only a practical but a very amusing book. He contrives ably to drag in his political opinions, and makes his examples and illustrations subservient to his likes and dislikes. Thus we have as an example of the time of an action expressed by a verb, 'The Queen (*i.e.* Queen Caroline) *defies* the tyrants, the Queen *defied* the tyrants, the Queen *will defy*

the tyrants.' To illustrate the hyphen, we have 'the never-to-be-forgotten cruelty of the borough tyrants.' Under the possessive case, 'Oliver the spy's evidence, Edwards the government's spy.' Nouns of number and multitude are thus grouped together: 'Mob, Parliament, Rabble, House of Commons, Regiment, Court of Queen's Bench, den of thieves, and the like.' 'We may, for instance, say of the House of Commons, *they* refused to hear evidence against Castlereagh when Mr. Maddox accused him of having sold a seat; or, *it* refused to hear evidence.' As a specimen of faulty syntax, 'The Attorney-General Gibbs, whose malignity induced him to be extremely violent, and was listened to by the judges;' and to illustrate mistakes of grammar, we have a chapter headed 'Errors and Nonsense in a King's Speech,' and a series of lessons 'intended to prevent statesmen from using false grammar, and from writing in an awkward manner.' The book abounds in such sarcastic hits. Of his 'Advice to Young Men' I can speak in terms of unqualified praise. It is full of sound sense, and is an admirable manual of duty for the class to which it is addressed. One great charm of the book is the knowledge we thereby get of the personal history and character of the man, for his confessions are almost as candid as those of Rousseau. We see him as he was; as the lover, the husband, and the father of a family; and it is in these relations that we have a view of the amiable side of his character, and forget the fierce and unscrupulous politician. 'Music, indeed,' he says; 'give me a mother singing to her clean, fat, and rosy baby, and making her home ring with her extravagant and hyperbolical encomiums upon it. That is the music which is the "food of love."' The man who wrote that must have had a warm and tender heart, and the next quotation may be given as a companion picture. 'A labourer's cottage on a Sunday, the husband or wife having a baby in arms, looking at two or three other ones playing between the flower borders, going from the wicket to the door, is according to my taste the most interesting object that eyes ever beheld, and it is an object to be beheld in no country upon earth but in England.' In choosing a wife Cobbett recommends rather a novel test: 'Get to see her at work on a mutton chop, or a bit of bread and cheese, and, if she deals quickly with these,

you have a pretty good security for that activity, that stirring industry, without which a wife is a burden, instead of being a help. Another mark of industry is a quick step, and a somewhat heavy tread, showing that the foot comes down with a hearty good will.' My space prevents me from quoting even a few of the admirable rules and maxims contained in the book which range from lessons of morality to the advantage of learning to shave with cold water ; but I would especially recommend the words of advice which the Ultra-Radical Cobbett gives as a remedy against discontent : 'It has pleased God to make an unequal distribution of talent and industry, of perseverance, of a capacity to labour, of all the qualities that give men distinction. We have not been our own makers ; it is no fault in you that nature has placed him above you, and would you punish him on account, and only on account, of his pre-eminence ?' Of all Cobbett's writings I like best his '*Rural Rides* ;' they describe his excursions on horseback, accompanied by his sons, chiefly through the southern counties of England, between the years 1821 and 1832, with economical and political observations relative to matters applicable to and illustrated by the state of those counties. And these observations form the most amusing, if not the most instructive, part of the book. They exhibit all the strength and prejudice and bitterness of Cobbett's dislikes. But its real charm is the thorough knowledge it displays of the pursuits of rural life, and the eye he had for the cultivated beauty of English scenery, 'smooth and verdant downs, in hills and valleys of endless variety as to height and depth and shape ; rich corn-land, unencumbered by fences ; meadows in due proportion, and those watered at pleasure ; and lastly, the homesteads sheltered in winter and shaded in summer by lofty and beautiful trees.' Sometimes he would ride forty miles in a day, with no other refreshment than a piece of bread and cheese or a rasher of bacon and a little milk and water. It is delightful to accompany him past corn-fields and woodlands, and see pictures before us by the hand of a master ; the snug farms and homesteads of England. 'The opening of the birch leaves is the signal for the pheasant to begin to crow, for the blackbird to whistle, and the thrush to sing ; and just when the oak buds begin to look reddish, and

not a day before, the whole tribe of finches burst forth in song from every bough, while the lark, imitating them all, carries the joyous sound to the sky. These are amongst the means which Providence has benignantly appointed to sweeten the toils by which food and raiment are produced.' And now comes one of the observations—'the English ploughman could once hear without the sorrowful reflection that he himself was a pauper, and that the beauties of Nature had for him been scattered in vain. . . . O! accursed paper money. Has Hell a torment surpassing the wickedness of thy inventor?' Paper money and the Bank of England were the two things which next to borough-mongers and Quakers he held most in abomination. Near Whitchurch he passed by the mill where paper still is made for the Bank, and he thus anathematised it:—'I hope the time will come when a monument will be erected where the mill stands, and when on that monument will be inscribed *The Curse of England*. This spot ought to be held accursed in all times henceforth and for evermore.' And again, when describing the beautiful valley of Chillworth, its meadows, its hop gardens, and its ponds, he bursts forth—'This valley, which seems to have been created by a bountiful Providence, as one of the choicest retreats of man, which seems formed for a scene of innocence and happiness, has been by ungrateful man so perverted as to make it instrumental in effecting two of the most damnable of purposes, in carrying into execution two of the most damnable inventions that ever sprang from the minds of men under the influence of the devil, namely, the making of gunpowder and of bank-notes.' I will give one more quotation: 'This vile paper money and funding system, this system of Dutch descent, begotten by Bishop Burnet, and born in hell; this system has turned everything into a gamble.' In his 'Rural Rides' Cobbett almost invariably calls London the 'wen,' and more than once applies to it the complementary terms 'smoking and infernal.' He wonders why, with all his love for the country, his fate should have been to live part of his life in a town. 'While I was writing the last sentence of the foregoing paragraph, thought took me up at the time when I used to wear a smock-frock and to carry a wooden bottle like that shepherd's boy, and in an instant it hurried me

along through my no very short life of adventure, of toil, of peril, of ardent friendship, and not less ardent enmity ; and after filling me with wonder that a heart and mind so wrapped up in every thing belonging to the gardens and the woods, should have been condemned to waste themselves away amidst the stench, the noises, and the strife of cities, it brought me back to the present moment, and sent my mind back to what I had yet to perform about Nicholas Grimshaw and his ditches.' And again, after describing Sir Thomas Winnington's seat in Worcestershire, where he was hospitably received, he imagines himself addressed by ' the devil of laziness,' and tempted to give up work and politics and live peacefully in such a spot. ' And such a pretty place for coursing, for hare-hunting, and woodcock-shooting, I dare say ; and then those pretty wild ducks in the water, and the flowers, and the grass, and the trees, and all the birds in the spring, and the fresh air, and never, never again, to be stifled with the smoke that from the infernal wen ascendeth for evermore, and that every easterly wind brings to choke me at Kensington. The last word of this soliloquy carried me back slap to my own study (very much unlike that which I am in), and bade me think of the *gridiron*. . . . . Ah ! but the hares and the pheasants, and the wild ducks. Yes, but the delight of seeing prosperity Robinson hang down his head for shame. . . . . ' He was fond of coursing and enjoying a gallop with the harriers as much as the keenest sportsman in England. He laughed at the idea of cruelty to the hare, and, ' as to the expense, a pack, even a full pack of harriers costs less than two bottles of wine a day with their inseparable concomitants.' He was delighted with a farmer's wife who, to escape the carriage duty and avoid ' feeding those cormorants who gorge on the taxes,' drove about in an ass cart. But he hoped that her husband was equally self-denying, and did not use wine and spirits, because ' for a husband to indulge himself in the guzzling of expensive, unnecessary, and really injurious drinks, to the tune perhaps of fifty or a hundred pounds a year, while he preaches economy to his wife, and with a face as long as my arm talks of the low price of corn, and wheedles her out of a curricule into a jack-ass cart, is not only *unjust*, but *unmanly*.' He



admired the market at Norwich. 'It resembles one of the French markets, only *there* the vendors are all standing and gobbling like parrots, and the meat is lean and bloody and nasty, and the people snuffy and grimy in hands and face; the contrary, precisely the contrary, of all which is the case in this beautiful market of Norwich, where the women have a sort of uniform like brown great-coats, with white aprons and bibs (I think they call them), going from the apron up to the bosom.' 'Warminster is a very nice town; everything belonging to it is *solid* and *good*. There are no villanous gingerbread houses running up, and no shabby-genteel people; no women trapesing about with showy gowns and dirty necks; no Jew-looking fellows with dandy coats, dirty shirts, and half-heels to their boots.' Perhaps no better proof of the *perversity* of his mind on some subjects can be given than by quoting what he says about the education of the poor. He affected 'to believe that the cry of want of education was intended to excuse neglect of their bodily wants, and to make reading and writing supply the place of food and clothing.' In this view it was like giving them a 'stone for bread.' 'The education canters,' he says, 'are the most curious fellows of all. They have seen education, as they call it, and crimes go on increasing together till the gaols, though six times their former dimensions, will hardly suffice, and yet the canting creatures still cry that crimes arise from want of what they call "education"! They see the felon better fed and better clad than the honest labourer. They see this, and yet they continually cry that the crimes arise from want of education! What can be the cause of this perverseness? It is not perverseness; it is *roguery*, *corruption*, and *tyranny*. But who is to expect morality from a half-starved man who is whipped if he do not work, though he has not for his whole day's food so much as I and my little boy snapped up in six or seven minutes upon Stoke-Chants Down?'

But the strangest book of all is his 'History of the Protestant Reformation,' which was inspired by his hatred of pauperism and the poor laws, both of which he attributed to the change of religion that took place in the reign of Henry VIII. It is an elaborate *acte d'accusation* against the authors of the Reformation, and their characters and conduct

are assailed with all the ferocity of a personal enemy. Not that he himself had any leaning to the Roman Catholic faith : he professed to be influenced solely by a regard to justice and truth. 'Born and bred,' he says, 'a Protestant of the Church of England, having a wife and a numerous family professing the same faith, having the remains of most dearly-loved parents lying in a Protestant churchyard, and trusting to conjugal or filial piety to place mine by their side ; I have in this undertaking had no motive, I can have had no motive, but a sincere and disinterested love of truth and justice.' He tells his readers at the outset that he intends to show 'that the Reformation was engendered in beastly lust, brought forth in hypocrisy and perfidy, and cherished and fed by plunder, devastation, and by rivers of innocent English and Irish blood ; and that, as to its more remote consequences, there are some of them now before us in that misery, that beggary, that nakedness, that hunger, that everlasting wrangling and spite which now stare us in the face and stun our ears at every turn, and which the Reformation has given us in exchange for the ease and happiness, harmony and Christian charity, enjoyed so abundantly and for so many ages by our Catholic forefathers.' Of course such a work, coming from a Protestant author, was welcomed by the Roman Catholic Church, and the book was translated into Italian at Rome, under the title '*Storia della Riforma Protestanta in Inghilterra ed in Irlanda, la quale dimostra come un tal'avvenimento ha impoverito, e degradato il governo del popolo in quei paesi.*' To say that the account it gives is unjust and unfair is to state what is far short of the truth. It is in many parts a mere caricature, and would be best described as history read backwards. In fact, the nature of Cobbett's mind utterly unfitted him for the office of historian of a period which, above all other periods, requires sound judgment and freedom from prejudice. He did not affect to be impartial, and he gloried in prejudice. The consequence is that he sees nothing but good in the cause he maintains, and nothing but evil in the cause that he condemns. His favourite theory is that England was wealthy and happy and populous while she adhered to her ancestral faith, and became poor and miserable and decayed when she renounced the obedience to the Pope, and lost her monasteries and

abbeys. Against the abuses of Peter's pence and alien priories he sets off the payments made to foreign princes and foreign troops. 'How we Protestants,' he exclaims, 'strain at a gnat while we swallow camels by whole caravans! Mr. Perceval gave more to foreigners in one single year than the Pope ever received from our ancestors in four centuries.' Papal supremacy was 'a most salutary thing,' the only check then existing for despotic power; and as to the celibacy of the clergy 'we find,' he says, 'whether we look at this rule in a moral, in a civil, or in a political point of view, that it was founded in wisdom, that it was a great blessing to the people at large, and that its abolition is a thing to be deeply deplored.' 'As to Luther,' he goes on to say, 'all accounts agree that Luther was a most profligate man!' and Cobbett attributes one of the motives of his opposition to the Pope to the fact that the grant of Indulgences had been entrusted to the Order of Dominicans, and not to the Order to which Luther belonged. 'Perhaps,' he says, 'the world has never in any age seen a nest of such atrocious miscreants as Luther, Zwinglius, Calvin, Beza, and the rest of the distinguished Reformers of the Catholic religion.' Every one of them was 'notorious for the most scandalous vices, even according to the full confession of his own followers!' He speaks of Cranmer as 'a name which deserves to be held in everlasting execration; a name which we could not pronounce without almost doubting of the justice of God, were it not for the knowledge of the fact that the cold-blooded, most impious, most blasphemous caitiff expired at last amidst those flames which he himself had been the chief cause of kindling.' He asserts his belief, on the authority of Dr. Bayley's 'Life of Bishop Fisher,' that Anne Boleyn was the daughter as well as the wife of Henry VIII., and assumes that she was guilty of adultery with four gentlemen of the King's household, and of incest with her own brother, Lord Rochfort. I need only say that no proof exists of the truth of any one of these charges; and even Mr. Froude, who has taken such pains to whitewash the character of Henry, and who has gone with great minuteness into the case of Anne Boleyn, is not able to urge more than the *probability* of her guilt, devised from the so-called confession of Smeton, and her own admissions of professions of love made to her by

Norris and Weston. I must, however, say in justice to Mr. Froude, with whose estimate of Henry VIII. I wholly disagree, that he has in this instance stated the case on both sides with much fairness and impartiality, and in this, as in other respects, he is as unlike as possible to Cobbett. Of course Queen Elizabeth comes in for a good share of abuse. She is 'the racking and ripping-up Betsey, the worst woman that ever existed in England or in the whole world, Jezebel herself not excepted; while Queen Mary is an example of fidelity, sincerity, patience, resignation, generosity, gratitude, and purity in thought, word, and deed.' But, to show Cobbett's fitness to be the historian of the Reformation, it will be sufficient to quote only one other passage in which he seeks to excuse, if not justify, the murders of the Protestant martyrs, on the ground that they 'were generally a set of most wicked wretches who sought to destroy the Queen and her Government, and under the pretence of conscience and superior piety to obtain the means of again preying upon the people.' The following is a good specimen of his picturesque style and the way in which he mingles description and abuse. 'Go into my county and survey even at this day the ruins of its perhaps twenty abbeys and priories, and then ask yourself, "What have we in exchange for these?" Go to the site of some once opulent convent. Look at the cloister, now become in the hands of some rack-renter the receptacle for dung, fodder, and faggot wood. See the hall where for ages the widow, the orphan, the aged, and the stranger found a table ready spread. See a bit of its wall now helping to make a cattle shed, the rest having been hauled away to build a warehouse. Recognise in the side of a barn a part of the once magnificent chapel; and if, chained to the spot by your melancholy musings, you be admonished of the approach of night by the voice of the screech-owl from those arches, which once at the same hour resounded with the vespers of the monk, and which have for 700 years been assailed by storms and tempests in vain; if thus admonished of the necessity of seeking food, shelter, and a bed, lift up your eyes, and look at the white-washed and dry-rotten shed on the hill called the "Gentleman's House;" and apprised of the "board wages" and "spring guns," which are the signs of his hospitality, turn your head, jog away from

the scene of former comfort and grandeur ; and with old English welcoming in your mind, reach the nearest inn, and then in a room, half warmed and half lighted, with a reception precisely proportioned to the presumed length of your purse, sit down and listen to an account of the hypocritical pretences, the base motives, the tyrannical and bloody means, under which, from which, and by which the ruin you have been witnessing was effected, and the hospitality you have lost was for ever banished from the land !' But I must now stop. I will only add one quotation, which will, I think, give a better idea than any other of the character and temperament of the man. In one of his works he says that he would desire no better epitaph upon his grave than this :—' Here lies William Cobbett, who was hanged because he would not allow the English labourer to live upon the d——d root called the potato.' And I may add that there hangs behind me an engraving of Cobbett, which has been kindly lent to me by Mr. Roberts of Bath. His father was a correspondent of Cobbett's, and several letters written by the latter are in his possession. In one of these Cobbett says, ' I want a wench to milk cows, but she musn't drink tea or curl her hair.' Mr. Roberts wrote back that he had found a girl likely to suit him, who would give up curling her hair, but must have her cup of tea. To this Cobbett wrote in reply, ' Dear Roberts, Your tea-drinking wench be d——d ! Yours truly, W. COBBETT.'

I hope that this sketch I have given of Cobbett's life and the quotations I have made from his works will enable you to form a tolerably correct opinion of the character of the man. With all his faults of prejudice and violence, we must remember that he had to cope with flagrant abuses in Church and State, which have only yielded to the slow growth of public opinion, and that if the forest of such abuses has been cut down some thanks are due to the rough pioneer who assailed them with his axe. But whatever may be thought of the politician there can be no doubt as to the writer. If any one wishes to form a clear, manly, vigorous style, and strengthen that style with the strength of Saxon English, let him study the pages of William Cobbett,

THE RULES OF EVIDENCE AS APPLICABLE  
TO THE CREDIBILITY OF HISTORY.<sup>1</sup>

TO believe without any evidence at all is irrational ; but to disbelieve against sufficient evidence is equally irrational.

By sufficient evidence I mean such an amount of proof as satisfies an unprejudiced mind beyond all reasonable doubt. Mathematical truth alone admits of *demonstration*. All other kinds of truth can only be proved by probabilities, which vary in an almost infinite degree, from the faintest kind of presumption to what is called moral certainty, which is accepted as practically equivalent to demonstration.

Upon evidence depends all our knowledge of past events ; and it is astonishing how little is often sufficient to satisfy us. The mere fact of its being written in a book is enough to make no inconsiderable number of readers believe in the truth of a statement, without reflecting whether the author had or had not the means of ascertaining the truth—for if he had, we may be justified in putting faith in his honesty ; but if he had not, his own assertion is worth nothing.

By proof, I mean anything that serves, either mediately or immediately, to convince the mind of the truth or falsehood of a fact or proposition ; and proofs differ according to the subject-matter of the thing to be proved.

One of the most common, and, at the same time, most satisfactory modes of proof as to things which do not fall within the experience of the senses is Induction, by which is meant the inference drawn from proved or admitted facts. It is for instance by induction that the general facts of Natural History are proved. When we say that all ruminant animals are cloven-footed, we cannot show any necessary connection between these physical phenomena ; but, having ascertained by a very large number of instances that they co-exist, and

<sup>1</sup> A Lecture delivered before the Victoria Institute or Philosophical Society of Great Britain, March, 1874.

that in no single case that has come under the observation of naturalists they fail, we are led irresistibly to the conclusion that the proposition is universally true, and we should predicate with confidence if a new race of animals were discovered in some hitherto unknown region, that if they are ruminants they are also cloven-footed. The underlying ground of belief in this case is our innate conviction of the prevalence of uniformity in Nature in things of the same kind. This uniformity we call a Law.

One test of the probability of a fact is its consistency with other facts previously known or admitted to be true—such as the constitution of human nature, the ordinary course of events, or some well-established truth. But it must be borne in mind, as Laplace has said, although perhaps in a different sense, that ‘Probability has reference partly to our ignorance, partly to our knowledge.’ We must be tolerably sure we do know the other facts, and that they are not really inconsistent with the fact in dispute. Otherwise we shall be following the example of the King of Siam, who rejected as incredible the statement of the Dutch Ambassador, that water could become a solid mass. This was simply because he had never seen or heard of it before; and it was contrary to his limited experience, or what he thought a law of nature. Hume felt the difficulty of this instance in the way of his argument against miracles, and attempts to get over it by saying that though the fact was not contrary to the king’s experience, it was not conformable to it. But this is not a fair way of putting it. Frost *was* contrary to the king’s experience as much as walking on the water without support is contrary to ours. And it cannot be denied that when by universal experience certain laws of nature are known to exist, it requires the strongest possible evidence to make us believe in any deviation from them. Hume’s famous argument against miracles is, that no testimony is sufficient to establish a miracle, unless the testimony be of such a kind that its falsehood would be more miraculous than the fact; and that no human testimony can have such force as to prove a miracle, because it is always more likely that the testimony should be false than that the miracle should be true.

The late John Stuart Mill has dealt with this argument

in his 'Logic,' and, I think, conclusively. He says that Hume's celebrated doctrine, that nothing is credible which is contrary to experience, or at variance with the laws of nature, is merely the very plain and harmless proposition that whatever is contrary to a complete induction is incredible. And he goes on to show that any alleged fact is only contradictory to a law of causation when it is said to happen without an adequate counteracting cause. 'Now,' says Mill, 'in the case of an alleged miracle the assertion is the exact opposite of this . . . . A miracle is no contradiction to the law of cause and effect; it is a new effect supposed to be produced by the introduction of a new cause.' He adds, truly enough, 'that if we do not already believe in supernatural agencies no miracle can prove to us their existence.' And we may freely admit, with him, that 'there is an antecedent improbability in every miracle, which, in order to outweigh it, requires an extraordinary strength of *antecedent* probability derived from the special circumstances of the case.' I shall have occasion to allude to the subject of miracles again hereafter.

History, from the Greek *ἱστορία*, properly signifies 'investigation' or 'research,' and implies, therefore, etymologically, a narrative based upon inquiry about facts.

Few persons consider what the evidence is of the genuineness of books attributed to authors who lived before the invention of printing, most of which are derived from manuscripts which themselves were only copies, the originals having been utterly destroyed or lost. This includes all the histories of Greece and Rome written by classic authors. I have dealt with this subject in a lecture I delivered in 1872, in the Hall of the Inner Temple, which has since been published under the title of 'History of Ancient Manuscripts.' I have not time to enter upon it here, but it is a very interesting subject of inquiry. I will only mention what Tischendorf, the great German Biblical scholar says, about the manuscripts of the New Testament: 'Providence has ordained for the New Testament more sources of the greatest antiquity than are possessed by all the old Greek literature put together.'

In one of his essays Lord Macaulay says of History:— 'Perfectly and absolutely true it cannot be: for to be perfectly and absolutely true, it ought to record *all* the slightest



particulars of the slightest transactions—all the things done and all the words uttered during the time of which it treats. The omission of any circumstances, however insignificant, would be a defect. If history were written thus, the Bodleian Library would not contain the occurrences of a week.' And Lord Macaulay might have added that no one would care to have such a mass of useless verbiage in existence. He is surely wrong in saying that history is not absolutely true simply because it does not give us *all* the particulars of the slightest transactions. Even in a court of justice we do not think that a witness is not telling the absolute truth because he does not relate every particular, however insignificant, of the fact or conversation to which he deposes. And this leads me to consider the difference between historical and judicial evidence. The late Sir George Cornewall Lewis says in that most valuable and learned work, 'The Credibility of the Early Roman History' (Preface, p. 16), 'Historical evidence, like judicial evidence, is founded on the testimony of credible witnesses. Unless those witnesses had personal and immediate perception of the facts which they report, unless they said and heard what they undertake to relate as having happened, their evidence is not entitled to credit. As all original witnesses must be contemporary with the events which they attest, it is a necessary condition for the credibility of a witness that he be a contemporary, though a contemporary is not necessarily a credible witness. Unless, therefore, a historical account can be traced by probable proof to the testimony of contemporaries, the first condition of credibility fails.' If, however, it is meant to be asserted that the same degree of certainty ought to be required in historical that is required in judicial evidence, it would be exacting too much, and carrying scepticism too far. In the first place, the thing is an impossibility, and the consequence would be, that we should be logically compelled to withhold our belief from nine-tenths of so-called historical facts about which we have really no doubt at all. But, secondly, the circumstances are wholly different. Judicial inquiries relate to minute and special facts in dispute, where two parties are opposed to each other, and it is the duty and interest of both to adduce the best evidence of which the thing to be proved is suscep-

tible. And in all civilised communities their systems of jurisprudence lay down technical rules of evidence—in some countries much more strict than in others—which circumscribe the range of proofs. For instance, in France, hearsay evidence is always admitted ; in England it is always excluded. In some parts of Germany a sort of arithmetical scale is applied to the testimony of witnesses. Different countries apply different rules of legal presumption, which are really not instruments of truth, but technical and positive modes of quieting controversy. But, to quote the words of an eminent writer on the law of evidence, ‘ However widely different codes may vary from each other in matters of arbitrary positive institution, and of mere artificial creation, the general means of investigating the truth of contested facts must be common to all. Every rational system which provides the means of proof must be founded on experience and reason, on a well-grounded knowledge of human nature and conduct, on a consideration of the value of testimony, and on the weight due to coincident circumstances.’—Starkie, ‘ On the Law of Evidence ’ (Preface).

But History deals with general rather than particular facts—with results rather than details—and from the nature and necessity of the case must be content with looser modes of proof than is necessary or expedient in judicial trials. All that we are entitled to ask from her is such an amount of evidence for the truth of the facts which she records as would satisfy the understanding of a reasonable man in the ordinary affairs of life. Every day we act upon evidence which, if offered in a court of justice, would be rejected. Too often we act upon very slight and insufficient evidence, especially in cases affecting the character of others, but in so far as we do this we act wrongly ; and in the same manner we act wrongly when we accept as true the mere statement of a historian on any question where truth is of importance, when we have it in our power to examine his authorities and judge of their value for ourselves.

It is part of the constitution of human nature to confide in the veracity of others. If this were not so a man’s belief would be limited to matters within his own personal experience, and no progress could be made in knowledge, nor would

improvement be possible. There is a tacit assumption when we yield to the force of oral evidence of what I may call the major premiss of our syllogism, viz., that men will generally speak the truth. Experience teaches us, if indeed it is not an intuitive impulse, to put faith in human testimony.

How beautiful is the trusting simplicity of childhood, and the absolute reliance which a child places in the word of its parents! But as we grow older this confidence is shaken, and experience compels us to acquiesce in the truth of the melancholy maxim of Lord Chatham, that 'confidence is a plant of slow growth in an aged bosom.' That stern monitor experience tells us that it by no means follows that because we have contemporary testimony to a fact the fact is true. Witnesses are often mistaken, and their evidence is not unfrequently false. We must, therefore, so far as is possible, apply certain rules by which to test the probability of its truth. I have already alluded to one test of probability, and that is the agreement of the fact with other facts known or admitted to be true. Another test is the concurrence of the testimony of independent witnesses, always supposing that each of them has had the means of knowing the fact or facts to be ascertained. Of course I exclude all copying from the same original, and this, perhaps, is implied in the word independent. As Archbishop Whately has observed, 'For though in such a case each of the witnesses should be considered as unworthy of credit, and even much more likely to speak falsehood than truth, still the chances might be infinite against their all agreeing in the same falsehood' ('Rhetoric,' pt. i. ch. ii. sec. 4). And in his 'Philosophy of Rhetoric,' Dr. Campbell says, 'It deserves likewise to be attended to on this subject, that in a number of concurrent testimonies (in cases wherein there could have been no previous concert) there is a probability distinct from that which may be termed the sum of the probabilities resulting from the testimonies of the witnesses, a probability which would remain even though the witnesses were of such a character as to merit no faith at all. This probability arises purely from the concurrence itself. That such a concurrence should spring from chance is as one to infinite; that is, in other words, morally impossible.' Lord Mansfield once said, with reference to the credit to be

given to certain reporters, 'It is objected that these are books of no authority ; but if both the reporters were the worst that ever reported, if substantially they report a case in the same way, it is demonstration of the truth of what they report, or they could not agree' (*R. v. George*, 1 Cowp. 16).

Generally speaking, the silence of contemporary writers as to a fact throws strong suspicion on its genuineness. But this test is not conclusive, for we may have overpowering evidence *aliunde* of its truth. Lord Macaulay says, 'We have read books called histories of England under the reign of George II. in which the rise of Methodism is not even mentioned.' And Varnhagen von Ense mentions in his Diary that Humboldt had adduced 'three important and perfectly undeniable matters of fact as to which no evidence is to be found where it would be most anticipated. In the archives of Barcelona no trace of the triumphal entry of Columbus into that city ; in Marco Polo no allusion to the Chinese Wall ; in the archives of Portugal nothing about the voyages of Amerigo Vespucci in the service of that crown.' But notwithstanding this, the silence of contemporary authority is one of the notes of falsehood with respect to an alleged historical fact. How do we know that the story of William Tell and his shooting an arrow at an apple on his son's head is untrue ? Because we do not find it in contemporary history ; and the first mention of it as a Swiss legend occurs in the chronicle of Melchior Russ, registrar at Lucerne, some two hundred years later. But, in addition, we find that the same story is told in Saxo Grammaticus, who wrote in the twelfth century, of a Danish hero ; a similar tale was current in Ireland ; and in the *Bilkinsaga* it is told of the mythical Eigil, the brother of Wieland, the smith. It also occurs in the legendary fables of Holstein, Norway, and other countries ; and although it is impossible to trace the origin of the story, it is certain that no such occurrence happened in Switzerland. It is one of the *enfants trouvés* of historical literature, which can lay no claim to legitimate paternity.

Why do we reject the story of the blind Belisarius begging his bread in the streets of Constantinople ? Because Procopius, who was a contemporary historian, and accompanied Belisarius in his Eastern wars, in Africa, and in Italy, says

nothing, in his account of the life and misfortunes of Justinian's famous general, of his blindness or beggary ; because no other contemporary writer mentions them ; and because the first hint of them occurs in some Greek verses written by John Tzetes, a grammarian, about six hundred years after the death of Belisarius. Why do we not believe the fable of Pope Joan, whose accouchement is said to have taken place in the midst of a procession at Rome ? Because no contemporary author makes mention of such an astounding occurrence, and we find the first allusion to it in the *Chronicon* of Marianus Scotus, who lived two hundred years afterwards. And even the passage there is said to be an interpolation. I believe that the first writer who really tells the story, is Stephen de Bourbon, in the thirteenth century. A not improbable explanation of it is that one of the Popes, who led an immoral life, had a mistress named Joan, who had such influence over him that she was called *Papesse*, and from this the story had its origin.

Why do intelligent and well-educated men accept as true the miracles of the New Testament, and reject as untrue the legends of the Saints ? This is not the place, nor would it be possible within the limits to which I must confine myself, to go into the proofs of the miracles related in the Gospels and the Acts. But briefly and summarily it may be said that we believe them,—1. Because they are recorded by eye-witnesses, who must either have been the dupes of an imposture or the fabricators of a falsehood. 2. They were done openly in the face of enemies who, so far as we know, never denied them. 3. They were done with an adequate motive and cause. 4. They serve to explain the origin of a religion which has lasted for eighteen centuries and won its way in spite of the fiercest opposition. Now, applying these tests to the legends of the Saints, we find that they fail in almost every particular ! Hardly any of them rest on the testimony of eye-witnesses. They are almost always isolated acts done in a corner, and not *coram populo*. And the most famous of them, which is an exception to the rule, I mean the cutting out of the roots of the tongues of a number of Christians at Tipasa, who afterwards spoke articulately and distinctly, has been shown by Mr. Twistleton in his able work, 'The Tongue not essential

to Speech,' to be no miracle at all, but the effect of natural causes as appears from many recorded parallel cases. Moreover, the mediæval miracles are for the most part silly, unmeaning, and childish, and they are often recorded by writers who lived long after they are said to have occurred, who breathed an atmosphere of credulity and were utterly destitute of the critical faculty. Such considerations are quite sufficient to justify our unbelief. If it is objected that intelligent Roman Catholics believe them, we answer that they are the disciples of a system which forbids the right of private judgment on questions determined by the authority of the Church; and we may well think it easy for men who believe in the doctrines of the Immaculate Conception and the Infallibility of the Pope, to believe also in the winking of an image of the Virgin, the liquefaction of the blood of St. Januarius, and the transportation, through the air, of a house of the Virgin from Palestine to Loretto. Thus we find a man of the intelligence of Dr. Newman saying, 'Crucifixes have bowed the head to the suppliant, and Madonnas have bent their eyes on assembled crowds. St. Januarius's blood liquefies periodically at Naples, and St. Winifred's well is the source of wonders even in an unbelieving country . . . . St. Francis Xavier turned salt water into fresh for five hundred travellers; St. Raymond was transported over the sea on his cloak; St. Andrew shone brightly in the dark . . . . I need not continue the catalogue. It is agreed on both sides; the two parties join issue over a fact—that fact is the claim of miracles on the part of the Catholic Church. It is the Protestant's charge, and it is our glory.'

I may here in passing allude to the monstrous theory of Strauss that the simple narratives in the four Gospels are mere myths, which grew out of a body of belief which, somehow or other, had taken possession of men's minds in the second century of our era, and are no more real than the legends of Theseus and Hercules. Our common sense revolts against such an absurdity; and, if Strauss himself really believed it, it only shows that no credulity can be greater or more childish than the credulity of an infidel.

Why do we believe Thucydides and disbelieve Livy? I shall speak of both of these writers more fully hereafter, but

here I may say that we believe Thucydides because he was a contemporary of the events which he relates ; he was himself an actor in some of them ; he had access to authentic information, both oral and monumental, and we have no reason to distrust his veracity. Of course I do not include the long speeches he puts into the mouths of the characters he introduces, for they are obviously manufactured, or, at all events, dressed up for the occasion, according to a practice very common in antiquity. We disbelieve a great part of the narrative of Livy for the following reasons :—We know that he could have had no trustworthy authority for many of his statements respecting the early history of Rome : some of those statements are intrinsically improbable, if not incredible : he lived centuries later than many of the events which he records, and he had not the critical faculty which enables an historian of the past, by a kind of instinct, to separate the true from the false. To this I must add the essentially Roman prejudice in favour of everything that would tell in favour of the greatness and glory of Rome. Hence his unfair account of the early wars of the Republic, and the injustice with which he has treated Hannibal.

We believe the story of the Anabasis and Retreat of the Ten Thousand, because the historian was the general who commanded the Greeks in that famous expedition ; but we reject his fables about dreams, omens, and prophecies, because we know that he was credulous about such things, and they were not matters which came within the scope of his own personal observation.

Our own early historians were as careless as their readers were credulous. King Lear, the son of Bladud, was accepted as an historical personage ; and even Milton, in his 'History of England,' admits the fable 'of Brutus and his line with the whole progeny of Kings to Julius Cæsar,' although it is impossible not to see that he has little faith in it. But he says, 'certain or uncertain, be that upon the credit of those whom I must follow ; so far as keeps aloof from impossible and absurd, attested by ancient writers from books more ancient, I refuse not as the due and proper subject of story.' Now, why do we refuse to believe the narrative ? Simply because, although it may contain nothing 'impossible or absurd,' which

is Milton's sole rule of exception, we know that the authors could not possibly have had any authentic information about the facts which they record. A child is as competent to write history as a grown-up man, if the statements of preceding authors are merely servilely copied, and no critical examination is made of the sources of their authority and the means they had of ascertaining the truth.

Dates are often of the utmost importance in verifying historical facts, but the dates themselves are sometimes uncertain. In Grecian history the general custom was to reckon by the year of the Olympiad, and therefore it is essential to know the date of the first year of the first Olympiad. Now, how do we ascertain this? If you will look into Clinton's *Fasti Hellenici*, p. 150, you will see that it is taken to correspond with 776 B.C., and this is proved by a curious *consensus* of authorities. The games were celebrated at intervals of four years; and if we know independently the exact date of an event, and find it placed in the particular year of a particular Olympiad, we can, by reckoning backwards, ascertain accurately the date of the first. For instance, we know, from contemporary or other evidence, that the consulships of C. Pompeius Gallus and Q. Verannius at Rome coincided with the first year of the 207th Olympiad, and we know the year of the Christian era of those consulships: this was the year A.D. 49. Now, 206 Olympiads or 824 years had elapsed since the beginning of the first, and this gives the year B.C. 776 as its date.

It is no doubt difficult to invent wholly so-called historical facts, which, if closely compared with known contemporaneous occurrences and ascertained dates, may not be shown to be false. But it is often still more difficult to find the material for such criticism. Oblivion may have swallowed up the records of the past, and then the only tests we can apply are the inherent probability or improbability of the alleged facts, their consistency or inconsistency with themselves, and our knowledge of the means which the writer possessed of being acquainted with their truth. I have already pointed out the untrustworthiness of historical statements first made by authors who lived long after the events which they record. And I have also shown that it is by no means altogether safe



to gauge the credibility of a fact by its agreement or disagreement with probability ; but as regards the test supplied by the means of comparing historical allegations with other historical facts which have been sufficiently proved, some of the most brilliant triumphs of criticism have been won by applying it. My time is too limited to allow me to adduce more than one or two specimens of this, and I think I cannot do better than cite that splendid example of scholarship and criticism, Bentley's 'Dissertation on the Genuineness of the Epistles of Phalaris.' The history of its authorship is this : About the year 1690, Sir William Temple published an essay upon Ancient and Modern Learning, in which he maintained the superiority of the ancients. And in support of his position, 'that the oldest books we have are still in their kind the best,' he adduced the 'Fables of Æsop' and the 'Epistles of Phalaris.' This attracted attention to the epistles, and a new edition of them was given to the world by the Hon. Charles Boyle ; and then Bentley published his 'Dissertation on the Epistles of Phalaris,' the object being to prove that they were spurious. I may mention, in passing, that an amusing parody of the original controversy between the respective champions of ancient and modern learning was written by Swift, called 'The Battle of the Books.' It may be interesting to point out some of the proofs by which Bentley for ever destroyed the credit which had been given to these epistles :—

(1.) He shows that in them Phalaris speaks of borrowing money from the inhabitants of a town in Sicily nearly three centuries before that town was built.

(2.) Phalaris is represented as giving to a physician a present of cups, called by the name of a Corinthian potter who lived more than a hundred years after Phalaris' death.

(3.) Phalaris speaks of Zancle and Messene as distinct towns, whereas, in truth, Zancle was merely the ancient name of Messene.

(4.) In one of his letters, Phalaris addresses Pythagoras as a philosopher, and speaks of his system of philosophy ; whereas we know that Pythagoras first called himself a philo-sophos, or lover of wisdom, when Leon of Sicyon asked him what he was. And it is impossible to believe that the term was in

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vogue, or even known to Phalaris, who, when he wrote the letter, had never seen Pythagoras.

(5.) Phalaris is very angry with Aristolochus for writing tragedies against him at a time when the word tragedy was utterly unknown.

(6.) Phalaris writes in Attic Greek, whereas, as a Sicilian, his dialect would have been Doric.

Let me illustrate this kind of criticism by a different example. On the Monte Cavallo—the old Quirinal Hill, at Rome—stand two colossal statues of horses, called ‘I Colossi di Monte Cavallo.’ Under one pedestal are, or were, inscribed the words *Opus Phidiæ*; under the other *Opus Praxitelis*. But formerly there were two more elaborate inscriptions, one to the effect that Phidias had here sculptured Bucephalus, the horse of Alexander the Great; and the other that Praxiteles, in competition with Phidias, had sculptured another figure of the same horse, Bucephalus. Now Phidias died somewhere about 432 B.C. Praxiteles flourished in 364 B.C., nearly a century later, and Alexander the Great was not born until 356 B.C. This was too much for even the credulity of a bygone generation, and Pope Urban VIII. effaced the inscriptions, and substituted for them the simple words *Opus Phidiæ* and *Opus Praxitelis*, which had at all events the merit of not being guilty of a palpable anachronism, although each is most probably absolutely untrue. But such an anachronism is not quite so bad as that of the writer in a *feuilleton* of the ‘*Constitutionnel*’ (supposed to have been Lamartine), who says, ‘The tombs of great poets inspire great passions. It was at Tasso’s tomb that Petrarch nourished his respectful remembrance of *Laura*!’ Now, Petrarch died in 1374, and Tasso published his ‘*Gerusalemme Liberata*’ in 1581!

This is very different from any argument against the genuineness of a fact founded merely on discrepancies of statement. A curious instance of this occurs in the accounts given of the execution of the Earl of Argyle in 1661. Clarendon says that he was condemned to be hanged, and executed. Burnet and Echard say that he was beheaded. This has been made use of by Paley, in his ‘*Evidences of the Christian Religion*,’ with reference to the variance in the statements of the Evangelists as to the circumstances of the Crucifixion.

No one doubts that Argyle was executed, which is the important fact; and there would be still less reason to doubt the fact of the Crucifixion, however the Evangelists may differ in minute details. It is, of course, a difficulty in the way of those who assert the literal and verbal inspiration of the Scriptures; but that is a subject foreign to my purpose, and too large to be dealt with by a passing notice in such an address as this.

It is a strange paradox that the belief of some writers and many readers seems to increase in the inverse ratio of the probabilities of the case. How else can we account for the fact that the more history recedes into the darkness of the past, bold statements are received with unquestioning credulity? Thus Dr. Hales in his work on Chronology assures us that the thirty reigns of the Athenian kings and archons from Cecrops to Creon, form 'one of the most authentic and correct documents to be found in the whole range of profane chronology,'—the truth being that the reigns of the kings are little better than fabulous; and Bünsen, in his 'Egypt's Place in Universal History,' undertakes to reconstruct the authentic chronology of Egypt for a period of nearly 4,000 years before Christ, and 'to restore to the ancient history of the world the vital energy of which it has been so long deprived,' although his chief authorities, independently of some monumental inscriptions, are Eratosthenes and Manetho, writers who lived more than 3,000 years after the period which they are supposed to authenticate. Now Manetho composed his history from two sources, temple registers and popular legends. I need say nothing about the latter, but what possible ground have we for believing that their priest-kept registers contained true accounts of events that happened thirty or forty centuries before the historian inspected them? Eratosthenes, at the request of Ptolemy, drew up a list of thirty-eight Theban kings, occupying a period of more than a thousand years; and it is sufficient to say with Mr. Grote that he 'delivered positive opinions upon a point on which no sufficient data were accessible, and therefore was not a guide to be followed. History thus written is nothing but clever guess-work, and amounts to no more than plausible conjecture, in which the chances are almost infinite that the narrative

is, if not wholly, at least materially wrong. As the speculation of an ingenious mind it may be interesting, but as a record of facts it is worthless.'

In his *Essay on the uncertainty of the history of the first four centuries of Rome*, in the '*Memoirs of the Academy of Inscriptions*,' tome vi. p. 71, M. de Pouilly says, 'History is the narrative of a fact which we derive from those whom we know to have been witnesses of it. It results from this definition that for a history to be authentic its author, or at all events the person on whose narrative it is based, must have lived at the time when the events happened.' And the same writer adds, 'Tradition is a popular rumour of which the source is not known. It is a chain of which we hold one end, but the other is lost in the abysmal depths of the past.'

To show the danger of trusting to tradition, I may take as an illustration the amusing game called '*Russian Scandal*,' where, a party being seated together in a row, a person at one end whispers some story into the ear of his neighbour, who repeats it in the same manner to the one next to him, and so on until it comes to the last, who tells aloud what he has heard. It will be generally found that the story thus transmitted varies essentially from the story as originally told, and the experience of every one as to the gossip of society teaches the same lesson. Laplace, in his '*Essai Philosophique sur les Probabilités*,' has made this the subject of a mathematical calculation. He says, 'Suppose a fact to be transmitted through twenty persons; the first communicating it to the second, the second to the third, &c., and let the probability of each testimony be expressed by nine-tenths (that is, suppose that of ten reports made by each witness nine only are true), then at every time the story passes from one witness to another the evidence is reduced to nine-tenths of what it was before. Thus, after it has passed through the whole twenty, the evidence will be found to be less than one-eighth.'

But belief by no means depends upon actual testimony. We believe in the results of mathematical inquiry by reasoning. We believe in the existence of a Creator by arguments drawn from design and other considerations. We may or may not believe that the planets are inhabited from arguments drawn from analogy. We believe many other facts from their

inherent probability, and so on. But in many such cases it would be more proper to speak of our persuasion than our belief, by which I mean, that our minds stop short of full conviction; but on weighing the evidence or arguments on both sides in opposite scales, we see that the balance inclines one way more than the other, and therefore we are disposed to think that such and such a proposition is true. This applies to many of the disputed facts of History. In his 'Grammar of Assent,' in order to show that certitude is the result of arguments which, taken in the letter, and not in their full implicit sense, are but probabilities, Newman takes the case of the following propositions:—

(1.) That we are absolutely certain that Great Britain is an island. But how do we know this? Those who have actually circumnavigated the country have a right to be certain; but which of us has done this, and which of us has even met with any one who tells us that he has done it? Newman shows by the common arguments that there would be a manifest *reductio ad absurdum* attached to the notion that we can be deceived on such a point as this, but at the same time that we are satisfied with proof which is not of the highest kind possible.

(2.) He takes the question of the authorship of the 'Æneid,' the plays attributed to Terence, and the so-called histories of Livy and of Tacitus, which the Abbé Hardouin maintained were the forgeries of the monks of the thirteenth century. We must not forget that our knowledge of the ancient classics comes entirely from mediæval copies of them made by monks from manuscripts which now no longer exist. How do we know that some of these so-called copies were not actual forgeries?<sup>1</sup> The strongest argument against such a supposition is our disbelief in the ability of mediæval monks to produce such works: and Newman says, justly enough, that an instinctive sense of this and a faith in testimony are the sufficient and undeveloped argument on which to ground our certitude. To faith in testimony we must add the absence of dissentient claims, and this will be found to be one of the most cogent reasons for our belief.

<sup>1</sup> 'To forge and counterfeit books and father them upon great names has been a practice almost as old as letters,' —Bentley's *Dissertation on Phalaris*.

(3.) Newman asks, What are my grounds for thinking that I, in my particular case, shall die? What is the distinct evidence on which I allow myself to be certain? Death to me is a future event. How do I know that, because all past generations have died, the same law must hold with regard to myself or others? He says, that the strongest proof I have for my inevitable mortality is the *reductio ad absurdum*; but I think that here he is mistaken that there is *reductio ad absurdum*, in the proper sense of the term, in the belief that I shall never die, although we may admit, with Newman, that there is a surplusage of belief over proof when I determine that I individually must die.

In that very clever and amusing *jeu d'esprit* by Archbishop Whately, 'Historic Doubts relative to Napoleon Buonaparte,' he has shown that logically we are not justified in believing that such a person as the first Emperor of the French ever existed. To state such a proposition seems to carry with it its own refutation, but the mock-serious argument of the Archbishop is sustained with wonderful skill and ability. His object, of course, was to show that the kind of reasoning by which infidels attempt to shake our faith in the narrative of Scripture *ought* equally to shake our belief in the existence of the first Napoleon.

I will now say a few words about the father of History, Herodotus, and briefly compare him with Thucydides.

In his 'Literature of Greece,' Colonel Mure calls Herodotus 'an essentially honest and veracious historian,' and says that, 'rigid, in fact, as has been the scrutiny to which his text has been subjected, no distinct case of wilful misstatement or perversion of fact has been substantiated against him.' Now what were the materials which Herodotus had for composing his history? They were (1.) previous histories; (2.) monumental records preserved in national repositories and religious sanctuaries or places of public resort. He himself quotes only one older historian, Hecataeus of Miletus, but several others had written before him, such as Ægeon of Samos, Bion, Deïochus of Proconnesus, Endemus of Paros, Charon of Lamp-sacus, and Pherecydes of Leros. We do not, however, know that Herodotus really had access to copies of their manuscripts, which would have been written on *papyri*, and must have

been few and costly. He was a great traveller and a diligent inquirer, and obtained a considerable part of his information from what he saw with his own eyes, and heard from persons acquainted with the facts. He tells us that he sifted and compared conflicting statements, and he often rejected stories which he did not think he had warrant for believing. But it is curious that in some cases his scepticism is now known to have been wrong. Thus he disbelieves the story of the circumnavigation of Africa by the Phœnicians in the seventh century before our era, on account of the marvel related by the voyagers, that as they sailed 'they had the sun on their right,' which is the strongest possible confirmation of the truth of the account. He cautiously doubts the existence of an amber-yielding district on the Northern Sea, and of any islands called Cassiterides, from which tin was said to be brought. But we know that amber is found on the shores of the Baltic, and that the Cassiterides were our own Scilly Islands. Some of his statements, which were formerly regarded as impossible or incredible marvels, have, by the progress of later discovery, been proved to be true. Such are his accounts of a race of men dwelling upon scaffoldings in Lake Prasias and living upon fish (v. 16), in fact, Lacustrians; of a breed of sheep in Arabia with such long tails that they were supported on trucks to preserve them from injury (iii. 13), as is the case in North Africa, and, I believe, in some parts of Spain at the present day. And to show that he is by no means the *gobemouche* that he is sometimes represented, I may instance what he says of the Arimaspians, a one-eyed race, who stole gold from the griffins, whom Milton thus mentions:—

As when a gryphon in the wilderness,  
With winged course o'er hill or moory dale,  
Pursues the Arimaspians, who by stealth,  
And from his wakeful custody purloined  
The guarded gold.

Herodotus says that he cannot persuade himself to believe the story, giving the sensible reason that there cannot be a race of men with one eye, who in all things else resemble the rest of mankind.

The value of Thucydides as a historian depends first on our faith in his honesty; and, secondly, on the fact that he had

access to contemporary testimony both oral and monumental. He was born about twenty-five years before the outbreak of the Peloponnesian war, and he took part in some of its events ; but he chiefly relied for information on the statements of others who had themselves been actors in the scenes that they described. He sometimes quotes inscriptions on monuments (i. 132-134) and letters and despatches (iv. 50 ; vii. 8 ; viii. 50), of which he had no doubt seen the originals or copies. He clearly was a man of sound judgment and great intelligence. Upon the whole we have as good reason for believing the history of Thucydides as we have for believing any other profane author ; but, as I have before observed, we are not to suppose that the long speeches which he puts into the mouths of Pericles and others were spoken as he reports them. They are rather forms of stating the arguments on both sides, such as Thucydides understood them.

Until a comparatively recent period the history of Rome, as told by Livy, was implicitly believed ; and as much credit was given to his account of the regal government of Rome as to the annals of the empire by Tacitus, a contemporary writer. Machiavel, in his 'Discourses on the First Decade of Livy,' accepts the story of the Kings as not less real than the story of the lives of the twelve Cæsars.

The first scholar who seems to have questioned the truth of the old narrative about Rome was Cluverius (a Latinised name for Philip Cluver, who was born in Dantzic in 1580). He published, in 1624, a book called '*Italia Antiqua*,' in which he expressed his opinion that Roman history before the capture of the city by the Gauls was all uncertain ; and he rejected the account of Trojan settlement in Latium, the Alban dynasty, and the story of the foundation of Rome by Romulus. Others followed in the same track ; I may mention Bochart, and Perizonius, and Pouilly, until at last the subject received an exhaustive examination in the remarkable work of Beaufort, a French Protestant refugee, who published at Utrecht, in 1738, his '*Dissertation sur l'Incertitude des Cinq Premiers Siècles de l'Histoire Romaine*.'

Beaufort is entitled to the honour of ranking as the pioneer of a new school of criticism ; but it was not until the publication of Niebuhr's '*History of Rome*,' in 1811-12, that the



subject attracted the attention it deserved. This work may be said to have revolutionised the world of thought in relation to Roman history. Its destructive power is irresistible, but its constructive power is very different. I will not say that Niebuhr endeavoured to evolve a history of Rome out of his own consciousness—like the famous story of the camel evolved by one of his countrymen—but he certainly trusted a great deal too much to sagacity of conjecture, which he dignified by the title of ‘discovery.’ He even goes so far as to liken his faculty in that respect to the power of divination—the *μαντεία* of the Greeks (vol. iii. p. 318). But it is one thing for a Cuvier or an Owen to build up the form of an animal from a single bone, and another for a historian to presume to construct a narrative of the distant past from a few isolated hints, or even isolated facts. In the animal form there is a correlation of parts, and a law of typical conformity, which enables the anatomist to ascend with almost unerring certainty from bone to limb, and from limb to body, and to clothe the body with its proper integuments, until we can see by the eye of imagination the very form that has ceased to exist upon the earth for perhaps millions of years. But such an induction is not possible in the case of human affairs and human actions; *varium et mutabile semper* would be their appropriate motto, and the events that actually happen often verify the saying that truth is stranger than fiction.

There is an old Scotch proverb, ‘Give a romancer a hair and he will make a tether of it,’ and this applies to a certain school of writers of history. Out of a scrap of prose, or a line of verse, or a broken fragment of an inscription, they will, by the aid of an active imagination, construct whole pages of narrative. The character of a people and the state of its society will be inferred from a few lines which may, when they were written, have been quite untrue, or mere satire, or a gross exaggeration. The historian in modern times who has been most conspicuous for the use of such materials is Lord Macaulay. The result is, that not consciously but inevitably truth is sacrificed to effect. I will mention two instances of this—his account of the Highlands, and his account of the state of the English clergy in the seventeenth century.

It is not pleasant to detract from the merit of a work of such

brilliancy as Lord Macaulay's 'History,' but it is impossible not to see that he has been misled into many great mistakes. I speak not now of his almost bitter hatred of the Duke of Marlborough, which induces him to paint his character in the blackest colours; and his almost idolatrous admiration of William III., which induces him to palliate all his faults, even that of faithlessness to his wife; but I allude to specific facts, in which the historian has been shown to be utterly wrong; and I would recommend those who doubt it to read the 'New Examen,' by Mr. Paget (London, 1861), in which the author has, with admirable acumen, instituted 'an inquiry into the evidence relating to certain passages in Lord Macaulay's 'History.' He has shown, I think satisfactorily, that Lord Macaulay has been inaccurate and unjust in his account of the execution by Claverhouse, of Brown, the so-called Christian carrier; that he has confounded William Penn, the founder of Pennsylvania, with a George Penn, in describing a disreputable transaction relative to the maids of Taunton; and that he is mistaken in several other matters of fact.

I have often thought how strangely History would have to be rewritten, if we could summon from the world of spirits those who were the chief actors in many of the events which it records, and obtain from them a true version of such events. How many motives would then be disclosed of which we now know nothing! How many inferences would be shown to be erroneous! How many facts would be altered in their complexion! And yet, in fairness, I ought to mention how seldom it has happened that popular verdicts, with respect to the character and events of history, have been proved to be wrong by subsequent researches. I may instance the attempts that have been made of late years to whitewash the characters of Tiberius, Henry VIII., and Robespierre, all of which seem to have signally failed.

Amongst other questions we should like to be able to put to satisfy our curiosity, I may select almost at random the following:—

Who were the Pelasgians, and whence came the Etrurians?

Was there a real war of Troy, and what were the facts?

Did Demosthenes receive any part of the money given up by Harpalus when he was arrested at Athens?

Who was the real founder of Rome?

What was the origin of the story that the Laws of the Twelve Tables were the result of a mission sent from Rome into Greece in the fifth century before Christ?

What authority had Suetonius for nine-tenths of the gossiping anecdotes contained in his 'Lives' of the Twelve Cæsars?

Was St. Peter ever Bishop of Rome? Beyond mere tradition there is no evidence that the Apostle ever even visited that city, much less that he was Bishop of it. Let those who assert the contrary refute, if they can, the facts and arguments of Barrow, in his 'Treatise on the Pope's Supremacy.' And yet, how much of the teaching of the Roman Catholic Church depends upon the assumption that St. Peter was the first Bishop of Rome, and that the Popes are his legitimate successors!

Was Petrarch's Laura a living creature of flesh and blood, or a mere poetical myth?

What was the real character of Richard III., and is it true that he was accessory to the murder of the Princes in the Tower, if murdered they were?

Horace Walpole concludes his ingenious essay called 'Historic Doubts in the Life and Reign of King Richard III.,' in the following words:—'We must leave this whole story dark, though not near so dark as we found it; and it is, perhaps, as wise to be uncertain in one portion of our history as to believe so much as is believed in all histories, though very probably as falsely delivered to us as the period which we have here been examining.'

What were the real facts of the Gowrie conspiracy in Scotland?

Did Mary Queen of Scots really write the letters to Bothwell which were produced from a silver casket before the Commissioners at Westminster, and which, if genuine, establish the fact of her being accessory to the murder of Darnley?

Was Anne Boleyn guilty of the charges brought against her by Henry VIII.? Mr. Froude has laboured to prove that she was, but his arguments are very far from convincing.

What was the real cause why James I. spared the life of

the Earl of Southampton, after his conviction of the murder of Sir Thomas Overbury?

Who was the Man in the Iron Mask? Who wrote the Letters of Junius?

It is extraordinary how few of the anecdotes which pass current in literature will bear the test of critical inquiry, and the result of a careful investigation of the evidence is apt to dispose the mind to general scepticism on such subjects. Let me mention a few instances which will serve to enliven what otherwise, I fear, will be thought rather a dull discourse.

The first I shall mention is not an anecdote, but a so-called historical fact.

We find it stated in Lempriere's 'Classical Dictionary' that the army which Xerxes led into Greece consisted of upwards of five million souls, and he says that 'the multitude which the fidelity of historians has not exaggerated was stopped at Thermopylæ by 300 Spartans under King Leonidas.' The thing is simply impossible, and therefore incredible, unless we adopt the maxim of Tertullian, and say, *Credo quia impossibile est.*

The story of Canute commanding the waves to advance no farther first appears in Henry of Huntingdon, who wrote a century after the Danish king. The legend of Fair Rosamond is treated by Hume as fabulous; and the greatest suspicion rests on the account of St. Pierre and his companions delivering up the keys of Calais to Edward III., with halters round their necks, and having their lives spared at the intercession of the queen. The popular story of the origin of the Order of the Garter, as owing to the accident that happened to the Countess of Salisbury when dancing at the court of Edward III., is first mentioned by Polydore Virgil, who wrote 200 years later. In his 'Lives of the Judges,' Mr. Foss has shown that the story of the reappointment of Sir William Gascoigne as Chief Justice, by Henry V., who, when Prince of Wales, had been committed by him to prison for an assault, is the reverse of true, for it seems that Henry V. actually deprived him of the office of Chief Justice a few days after his accession to the throne. The interesting story that Cromwell, Hampden, and Hazelrig had actually embarked for New England in 1638, prepared to abandon the country for

ever, when they were stopped by an Order in Council, has been proved to have no foundation in fact.

The celebrated phrase attributed to Francis I. after the battle of Pavia, *Tout est perdu fors l'honneur*, turns out to have been *l'honneur et la vie qui est sauvé*, which deprives it of all its point. As to the story of the chivalrous interchange of courtesies between the English and French guards at the battle of Fontenoy, 'Monsieur, bid your men fire.' 'No, sir; we never fire first,'—Carlyle says, in his 'Life of Frederick the Great' (vol. iv. p. 119), 'It is almost a pity to disturb an elegant historical passage of this kind circulating round the world in some glory for a century past; but there has a small irrefragable document come to me which modifies it a good deal, and reduces matters to the business form.' This document is a letter from Lord Charles Hay, lieutenant-colonel of the Guards, written or dictated about three weeks after the battle, and giving an account of what happened. In this no mention is made of the occurrence, and we may confidently believe with Carlyle, that 'the French mess-rooms (with their eloquent talent that way) had rounded off the thing into the current epigrammatic redaction.'

We all know how French historians, including M. Thiers, repeat the story of 'Le Vengeur' refusing to strike her flag in the action of June 1, 1794, and going down into the depths of the ocean while her crew shouted *Vive la République!* This has been shown by Admiral Griffiths, who was living in 1838, one of the few survivors of the engagement, and who wrote a letter on the subject, to be as he calls it 'a ridiculous piece of nonsense.' When the 'Vengeur' sank the action had ceased for some time. She had been taken possession of by the boats of the 'Culloden;' and, as to the crew, Admiral Griffiths says, 'never were men in distress more ready to save themselves.' There was 'not one shout beyond that of horror and despair.' And yet the lie will live in the annals of French heroism, and will perhaps be believed to the end of time.—See 'Carlyle's Essays,' vol. v. p. 356–359. And the same, I believe, may be said of the story of Casabianca and his son at the battle of the Nile.

Before I conclude I will, with reference to the special objects of this Institute, state in as terse a form as possible

the reasons why we are justified in believing on historical grounds the truth of the narratives in the New Testament, excluding all consideration of its doctrines :—

- (1.) The contemporary nature of the testimony.
- (2.) The artlessness and *apparent* truthfulness of the writers.
- (3.) The substantial agreement, together with the circumstantial variety of statements, of four different contemporary eye-witnesses.
- (4.) The undesigned coincidences which exist between the Gospels and Acts on the one hand and the Epistles on the other.
- (5.) The absence of any conceivable motive for fraud or falsehood.
- (6.) The difficulty, if not the absurdity, of supposing that the teachers of the purest morality should be engaged in the immoral work of propagating an imposture and forging documents.
- (7.) The utter absence of any contradiction to their statements during the first four centuries.
- (8.) The frequent reference to the words of the four Evangelists by writers who lived in the first two centuries, showing that their narratives were then current and well known.
- (9.) The adequacy of the cause for miraculous interposition, if we believe in a benevolent Creator and in the immortality of the soul.
- (10.) The sufficiency of the accounts to explain the phænomenon of Christianity as a religion which now exists in the world, whereas no other theory has explained or can explain it.

If these are not sufficient grounds for believing the truth of the accounts that have come down to us, I know not any historical fact which we are justified in believing.













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